

Licensing Sub-Committee

11 May 2016

Report Title	Application for a Private Hire Vehicle Driver's Licence	
Accountable Strategic Director	Kevin O'Keefe Governance	
Originating service	Licensing Services	
Accountable employee	Elaine Moreton Tel Email	Section Leader 01902 555033 elaine.moreton@wolverhampton.gov.uk

Recommendation(s) for action or decision:

The Licensing Sub-Committee is requested to consider an application for a private hire vehicle driver's licence.

1.0 Purpose

- 1.1 The Licensing Sub-Committee is requested to consider an application for a private hire vehicle driver's licence having regard to the applicant's convictions as attached at Appendix A to this report.

2.0 Background

- 2.1 On 25/07/2012 the Licensing Committee approved a revised decision making process. These arrangements delegated certain non-strategic decisions to the Head of Regulatory Service, Service Managers and Section Leaders from Licensing Services from within the Regulatory Services Division.
- 2.2 Amongst the decisions delegated is the authority to consider new applications for hackney carriage and private hire vehicle, driver and operator licences and reviews of existing hackney carriage and private hire vehicle, driver and operator licences and to action the matter in accordance with the "Guidelines Relating to Relevance of Convictions and Breaches of Licence Conditions".
- 2.3 Where decisions are made which are contrary to the guidelines or where the matter is referred to the Licensing Sub-Committee reasons will be given.

3.0 Legal implications

- 3.1 The provision of Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 gives the Council significant powers to grant or refuse applications submitted for private hire vehicle driver's licences.
- 3.2 Section 51 states that a district council shall, on receipt of an application from any person for the grant to that person of a licence to drive a private hire vehicle grant to that person a driver's licence.

However, a district council shall not grant a licence:

- (a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or
- (b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of application for a driver's licence so authorised.
[JB/04052016/V]

4.0 Human Rights Act/Equalities implications

- 4.1 By virtue of the Human Rights Act 1998 it is unlawful for the Council to act in a way incompatible with a right set out in the European Convention of Human Rights. A victim of any such act or omission may claim damages and compensation against the Council. The First Protocol – Article 1 provides:

- (i) “Every natural and legal person is entitled to the peaceful enjoyment of his possessions”.
- (i) “No person shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law”.

4.2 This is relevant to the power to grant or refuse licences and also to decisions to suspend or revoke existing licence and the decision affects the applicant or licence holder’s right to engage in business. Councillors must therefore consider the proportionality of any decision based upon the need to uphold standards and to reflect the seriousness of any failure to live up to such standards. The purpose of entrusting the Council with the power to grant licences is so that the public will be provided with a suitable and safe service.

5.0 Financial implications

5.1 Licensing Committee agreed fees and charges for this function on 20 January 2016; the fees are based on a cost recovery basis over a three year period. The fee for this application is £77 and is non-refundable. [TT/06012016/P]

6.0 Environmental implications

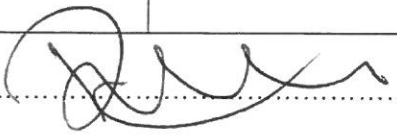
6.1 There are no direct environmental implications. However the Council has a duty to ensure that every person who holds a private hire vehicle driver’s licence is deemed to be “fit and proper”. This helps to ensure a safer local environment for residents of and visitors to the City.

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PRIVATE HIRE VEHICLE DRIVERS' LICENCE APPLICATION															
Licensing Services City of Wolverhampton Council		Date and Time of Hearing: 3/3/2016 3.45PM													
NAME	KHALID AMIN ISMAIL		D.O.B. 08/04/1975												
ADDRESS	189 WESTON STREET, WALSALL WS1 4EF														
LICENCE TYPE	Private Hire Vehicle Driver	PDA													
SUMMARY OF • LICENCE HISTORY • CONVICTIONS/ OFFENCES • OTHER INFORMATION	<p>NEW</p> <p>Mr Ismail has applied for a Private Hire Vehicle Driver's Licence on 19/2/2016. As part of the application process Mr Ismail was subject to a DBS Criminal Record check and DVLA Driving Licence check which revealed the following:-</p> <p>Mr Ismail has previously held a Private Hire Vehicle Driver's Licence with Walsall Metropolitan Borough Council since 2010 until it was revoked due to the conviction of 13/11/2015.</p> <table border="1"> <thead> <tr> <th>DATE</th> <th>CONVICTION</th> <th>COURT</th> <th>SENTENCE</th> </tr> </thead> <tbody> <tr> <td>18/8/2015</td> <td>Destroy/damage property</td> <td>Black Country Magistrates</td> <td>No separate penalty</td> </tr> <tr> <td>13/11/2015</td> <td>Battery</td> <td>Black Country Magistrates</td> <td>Imprisonment 20 weeks wholly suspended 20 months Costs £620 Compensation £1000 Restraining Order – Protection from Harassment 12/11/18 on conviction Curfew requirement 10 weeks with electronic tagging remain at home daily between 7pm – 6am Victim Surcharge £80 Criminal Courts charge £150</td> </tr> </tbody> </table>			DATE	CONVICTION	COURT	SENTENCE	18/8/2015	Destroy/damage property	Black Country Magistrates	No separate penalty	13/11/2015	Battery	Black Country Magistrates	Imprisonment 20 weeks wholly suspended 20 months Costs £620 Compensation £1000 Restraining Order – Protection from Harassment 12/11/18 on conviction Curfew requirement 10 weeks with electronic tagging remain at home daily between 7pm – 6am Victim Surcharge £80 Criminal Courts charge £150
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APPROVED GUIDELINES RELATING TO DETERMINATION OF APPLICATION	<p><u>5.1.12b Violence</u></p> <p>Repeat offences – will normally revoke or refuse to renew. A new licence will not normally be granted for 10 years following the date of conviction or expiry of a prison sentence. CLEAR 1/4/2026</p>														

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LICENSING - PROPOSED ACTION	REFER TO SECTION LEADER	APPROVED BY _____ Licensing Officer Date _____
SECTION LEADER COMMENTS	Mr Ismail's situation is complicated and involves other family members in a long standing dispute. He spoke at length about the circumstances of his situation and produced many documents, not least photographic evidence of the injuries sustained to his eye and face. Mr Ismail is not clear of the guidelines until 01.04.2026.	
SECTION LEADER DECISION	Referred to Licensing Sub Committee	
Signed  Date 03.03.2016 R Edge Section Leader Licensing		

Licensing Sub-Committee

11 May 2016

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Accountable Strategic Director	Kevin O'Keefe Governance	
Originating service	Licensing Services	
Accountable employee	Elaine Moreton Tel Email	Section Leader 01902 555033 elaine.moreton@wolverhampton.gov.uk

Recommendation(s) for action or decision:

The Licensing Sub-Committee is requested to consider an application for a private hire vehicle driver's licence.

1.0 Purpose

- 1.1 The Licensing Sub-Committee is requested to consider an application for a private hire vehicle driver's licence having regard to the applicant's conviction and information as attached at Appendix A to this report.

2.0 Background

- 2.1 On 25/07/2012 the Licensing Committee approved a revised decision making process. These arrangements delegated certain non-strategic decisions to the Head of Regulatory Service, Service Managers and Section Leaders from Licensing Services from within the Regulatory Services Division.
- 2.2 Amongst the decisions delegated is the authority to consider new applications for hackney carriage and private hire vehicle, driver and operator licences and reviews of existing hackney carriage and private hire vehicle, driver and operator licences and to action the matter in accordance with the "Guidelines Relating to Relevance of Convictions and Breaches of Licence Conditions".
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3.0 Legal implications

- 3.1 The provision of Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 gives the Council significant powers to grant or refuse applications submitted for private hire vehicle driver's licences.
- 3.2 Section 51 states that a district council shall, on receipt of an application from any person for the grant to that person of a licence to drive a private hire vehicle grant to that person a driver's licence.

However, a district council shall not grant a licence:

- (a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or
- (b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of application for a driver's licence so authorised.
[JB/04052016/Y]

4.0 Human Rights Act/Equalities implications

- 4.1 By virtue of the Human Rights Act 1998 it is unlawful for the Council to act in a way incompatible with a right set out in the European Convention of Human Rights. A victim of any such act or omission may claim damages and compensation against the Council. The First Protocol – Article 1 provides:

- (i) “Every natural and legal person is entitled to the peaceful enjoyment of his possessions”.
- (i) “No person shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law”.

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5.0 Financial implications

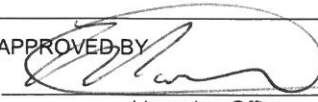
5.1 Licensing Committee agreed fees and charges for this function on 20 January 2016; the fees are based on a cost recovery basis over a three year period. The fee for this application is £123 and is non-refundable. [TT/06012016/P]

6.0 Environmental implications

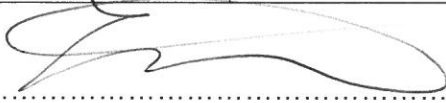
6.1 There are no direct environmental implications. However the Council has a duty to ensure that every person who holds a private hire vehicle driver’s licence is deemed to be “fit and proper”. This helps to ensure a safer local environment for residents of and visitors to the City.

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PRIVATE HIRE VEHICLE DRIVERS' LICENCE APPLICATION											
Licensing Services City of Wolverhampton Council		Date and Time of Hearing:									
NAME	MOHAMMED RIAZ D.O.B. 20/09/1974										
ADDRESS	8 REYNOLDS ROAD, BIRMINGHAM B21 0TJ										
LICENCE TYPE	Private Hire Vehicle Driver	PDA									
SUMMARY OF • LICENCE HISTORY • CONVICTIONS/ OFFENCES • OTHER INFORMATION	<p>NEW</p> <p>Mr Riaz applied for a Private Hire Vehicle Driver's Licence on 29/1/2016. As part of the application process Mr Riaz was subject to a DBS Criminal Record check and DVLA Driving Licence check which revealed the following:-</p> <table border="1"> <thead> <tr> <th>DATE</th> <th>CONVICTION</th> <th>COURT</th> <th>SENTENCE</th> </tr> </thead> <tbody> <tr> <td>17/10/2014</td> <td>Affray</td> <td>Birmingham Crown</td> <td>Community Order 12 months unpaid work requirement 120 hours - before 14/11/15 - probation to supervise work Victim Surcharge £60 Costs £300</td> </tr> </tbody> </table> <p>Mr Riaz has held a Private Hire Vehicle Driver's Licence with Birmingham City Council from 30 January 2003 until 4/3/2015 when it was revoked by Birmingham City Council due to the conviction of 17/10/2014.</p> <p>Mr Riaz appealed against the conviction but was unsuccessful. The conviction of affray occurred whilst Mr Riaz was a licensed Birmingham City Council Private Hire Vehicle Driver.</p>			DATE	CONVICTION	COURT	SENTENCE	17/10/2014	Affray	Birmingham Crown	Community Order 12 months unpaid work requirement 120 hours - before 14/11/15 - probation to supervise work Victim Surcharge £60 Costs £300
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APPROVED GUIDELINES RELATING TO DETERMINATION OF APPLICATION	<p><u>5.1.12(a) Violence</u></p> <p><i>First offence</i> – will normally revoke or refuse to renew. A new licence will not normally be granted for 5 years following the date of conviction or expiry of a prison sentence. CLEAR 17/10/2019.</p>										
LICENSING - PROPOSED ACTION	REFER TO SECTION LEADER	<p>APPROVED BY </p> <p>Licensing Officer</p> <p>Date <u>28/4/16</u></p>									

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<p>COMMENTS</p>	<p>Mr Riaz has provided several character references these will be available at the Sub-Committee hearing.</p> <p>Mr Riaz has no motoring convictions.</p>
<p>DECISION</p>	<p>Refer to Licensing Sub-Committee.</p>
<p>Signed </p> <p>Date <u>29/4/16</u></p> <p>E Moreton Section Leader</p>	

Licensing Sub-Committee

11 May 2016

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PRIVATE HIRE VEHICLE DRIVERS' LICENCE APPLICATION

Licensing Services

City of Wolverhampton Council

Date and Time of Hearing:

NAME **Nasir Shahzad** D.O.B. 25/10/1983ADDRESS **179 GLENDOWER ROAD, PERRY BARR, BIRMINGHAM B42 1SU**

LICENCE TYPE Private Hire Vehicle Driver PDA

SUMMARY OF

- LICENCE HISTORY
- CONVICTIONS/
OFFENCES
- OTHER
INFORMATION

NEW

Mr Shahzad has applied for a Private Hire Vehicle Driver's Licence on 15/03/2016. As part of the application process Mr Shahzad was subject to a DBS Criminal Record check and DVLA Driving Licence check which revealed the following:-

DATE	CONVICTION	COURT	SENTENCE
18/11/1997	Taking conveyance without authority	Sutton Coldfield Juvenile	Costs £20 Conditional discharge 6 months
02/03/2003	Driving without due care and attention	?	Fine £100 3 Penalty Points
06/09/2005	Wounding/inflicting grievous bodily harm	Birmingham Crown	Imprisonment 8 months

Mr Shahzad has a Private Hire Vehicle Driver's Licence with Birmingham City Council from 15/02/2004 until 13/10/2005 when it was revoked due to the conviction of 06/09/2005.

APPROVED GUIDELINES RELATING TO DETERMINATION OF APPLICATION

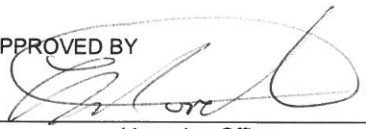
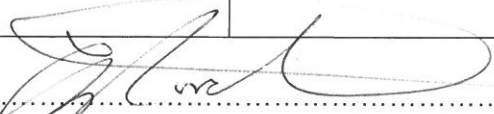
5.1.10(a) Dishonesty

First offence – will normally revoke or refuse to renew. A new licence will not normally be granted for 5 years following the date of conviction or expiry of a prison sentence. **CLEAR 18/11/2002**

5.1.3(a) Major Traffic Offences (Other than drink driving and drug offences)

First offence – will normally revoke or refuse to renew. A new licence will not normally be granted for 5 years following the expiration of the disqualification period or if not disqualified 5 years from the date of conviction. **CLEAR 02/03/2008**

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	<p><u>5.1.13(a) Violence (Serious)</u></p> <p><i>First offence</i> – will normally revoke or refuse to renew. A new licence will not normally be granted for 7 years following the date of conviction or the expiry of a prison sentence. CLEAR 06/05/2013</p>	
<p>LICENSING - PROPOSED ACTION</p>	<p>REFER TO SECTION LEADER</p>	<p>APPROVED BY</p>  <p>_____ Licensing Officer</p> <p>Date <u>28/4/2016</u></p>
<p>SECTION LEADER COMMENTS</p>	<p>Although Mr Shahzad is clear of the City of Wolverhampton guidelines. The conviction of 06/09/2005 occurred whilst Mr Shahzad was working as a Birmingham City Council Private Hire Vehicle Driver.</p>	
<p>SECTION LEADER DECISION</p>	<p>Depart from the Guidelines 4.6 and refer to Licensing Sub-Committee.</p>	
<p>Signed </p> <p>E Moreton Section Leader Licensing</p> <p>Date <u>29/4/16</u></p>		