

**Committee:** Licensing and Environmental Health  
Committee  
**Date:** 29<sup>th</sup> October 2012  
**Title:** Determination of a Private Hire Driver's  
Licence  
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Agenda Item

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Item for  
decision

### Summary

- 1 This report is to inform Members of an application for the grant of a Private Hire/Hackney Carriage Driver's Licence.

### Recommendations

- 2 The Committee determine this application.

### Background Papers

DVLA Counterpart Driver's Licence  
Private Hire/Hackney Carriage Driver's application form  
Copy of Licensing Standards  
Report to the Committee dated 19<sup>th</sup> April 2011  
Minutes of the Licensing Committee held on 19<sup>th</sup> April 2011

### Impact

Communication/Consultation	None
Community Safety	The authority has a duty only to licence drivers who are considered to be fit and proper
Equalities	None.
Finance	None.
Health and Safety	None.
Legal implications and Human Rights	Members are obliged to grant a licence to an applicant who holds a full current driving licence and has held one for at least 12 months but must not grant a licence unless they are satisfied that the applicant is a fit and proper person. In the event the application is refused the applicant has a right of appeal to a Magistrates Court.  Whilst it is legitimate for councils to have policies, they may not be rigidly bound by them and must be prepared to make exceptions to policy in appropriate circumstances.  If Members refuse the application the applicant has

	a right of appeal to the Magistrates Court. As he has not previously been licensed he may not drive as a private hire vehicle driver pending the determination of the appeal.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

#### Situation

3. Peter Burgon of 49 Mountfitchet Road, Stansted, Essex has made application to this authority for the grant of a Private Hire/Hackney Carriage Driver's Licence.
4. Mr Burgon previously held a private hire driver's licence from this authority being first licensed on 1<sup>st</sup> February 2008. The licence was revoked on 19<sup>th</sup> April 2011 as Mr Burgon at that stage did not meet the council's licensing standards having more than 3 minor motoring convictions within 3 years. Mr Burgon appealed against that revocation and on the 31<sup>st</sup> August 2011 the court dismissed the appeal and ordered Mr Burgon to pay the council's costs.
5. Since the revocation of his licence the first and second convictions have now elapsed and on the face of it Mr Burgon therefore meets the council's licensing standards.
6. On 29<sup>th</sup> March 2011 Mr Burgon appeared before Colchester Magistrates Court for an offence of excess speed. The offence level of speed was such that it is unlikely that it would have been dealt with by a fixed penalty notice but in any event at that time a fixed penalty could not have been imposed as the points attributable to the offence would have taken Mr Burgon to 12 points within a 3 year period. This would attract automatic disqualification for a period of at least 6 months except in exceptional circumstances. The court was persuaded that Mr Burgon would suffer exceptional hardship if a disqualification were to be imposed and exercised its discretion not to disqualify him in the circumstances.
7. Had Mr Burgon been disqualified for the standard 6 month period he would not have met the licensing standards for 3 years after the expiration of the disqualification. Thus the earliest Mr Burgon would have met the council's licensing standards would have been September 2014.
8. Although Mr Burgon currently meets the council's licensing standards in determining whether Mr Burgon is a fit and proper person members are entitled to take into account the totality of his driving record and in particular the fact that had the magistrates not exercised their discretion not to disqualify Mr Burgon would not currently meet those standards. It is for this reason that the Assistant Chief Executive – Legal has decided not to grant the licence under delegated powers but to refer the application to the committee for determination.

9. Mr Burgon currently holds a Private Hire Operator's Licence trading as Airport Executive Cars which is due to expire on 30<sup>th</sup> April 2013. He has held this licence since 15<sup>th</sup> May 2008.
10. If the applicant were successful in obtaining a licence then he would drive on behalf of his own company namely Airport Executive Cars who are based at his home address.

### Risk Analysis

<b>Risk</b>	<b>Likelihood</b>	<b>Impact</b>	<b>Mitigating actions</b>
An unsuitable person may be licensed to drive	2 It is likely that members will take note of the current licensing standards	3 The public may be put at risk	Members consider whether there are any grounds for departing from their policy