

## **Licensing and Appeals Sub Committee Hearing Panel**

### **Minutes of the meeting held on Monday, 13 May 2019**

**Present:** Councillor Ludford (Chair)

**Councillors:** Grimshaw and Reid

#### **LACHP/19/48. Exclusion of the Public**

A recommendation was made that the public is excluded during consideration of the items of business.

#### **Decision**

To exclude the public during consideration of the following items which involved consideration of exempt information relating to the financial or business affairs of particular persons, and public interest in maintaining the exemption outweighed the public interest in disclosing the information.

#### **LACHP/19/49. Application for a New Private Hire Driver Licence (JL)**

The Committee considered the circumstances of the offence and accepted it was committed by the applicant when he was very young and had been drinking alcohol which had affected his judgment. The Committee took into account the fact that it was 8 years since the conviction and that the applicant had not been convicted of any further offences since this conviction occurred. The Committee accepted that this was an isolated incident carried out when the applicant was very young and accepted that he has changed his life since this incident and is a fit and proper person to hold a licence.

#### **Decision**

To grant the application with a warning as to the future conduct of the Driver.

#### **LACHP/19/50. Application for a Review of a Private Hire Driver Licence (JLK)**

The Committee considered the content of the report and listened to the representations of the driver and the Licensing Officer.

The Committee noted that the driver had been convicted of the offence of plying for hire after a Trial at the Magistrates Court and that the conviction was appealed unsuccessfully to the Crown Court. The Committee therefore did not accept the version of events that he had not plied for hire but that the passengers got into his vehicle without an invitation and he had not intended to carry them as passengers in his vehicle.

The Committee noted that when he had been stopped by the licensing officer he had not told the officer this version of events and had driven away when the lights had changed. Plying for hire is a serious offence for a licensed driver and the repercussions for the passengers is that they are uninsured for the journey.

The Committee noted this was a recent conviction well within the guidelines and did not consider there were any reasons to depart from the guidelines. Therefore in all the circumstances the Committee was no longer satisfied the driver was a fit and proper person.

### **Decision**

To revoke the licence

#### **LACHP/19/51.           Application for a Review of a Private Hire Driver Licence (MR)**

The Committee considered the content of the report and the representations made at the hearing.

The Committee accepted that the applicant may not have been aware of the MS90 conviction immediately as it appears to have been proved in his absence and therefore he would not have been in a position to declare it sooner. However he had also failed to declare a caution in relation to drugs however the Committee accepted that this was an isolated incident and that he no longer uses drugs.

The Committee took into account the fact that he had been a licensed driver since 1994 and had no passenger complaints or serious criminal convictions recorded against him and therefore in all the circumstances the Committee was satisfied he remains a fit and proper person.

### **Decision**

To grant the renewal application with a warning as to the future conduct of the driver.

#### **LACHP/19/52.           Application for a Review of a Hackney Carriage Driver Licence (FM)**

The Committee considered the content of the report and the representations made by the driver and his Union representative.

The Committee was concerned about the number and nature of the complaints received against the driver.

The Committee did not accept that there was no merit in any of these complaints and in particular noted that the customers had in some instances refuted the Driver's explanations when the investigating officer reported back to the complainant. However the Committee did accept that some of the complaints were due to a breakdown in communication and poor customer service rather than a deliberate attempt to defraud passengers and therefore due to the very poor communication

and customer service currently provided by the driver the Committee no longer consider him to be a fit and proper person to hold a licence.

The Committee did however take into account the guidance and support being offered by the Union and considered that with the proposals being put forward which were the installation of dashcam and for the driver to undertake a relevant course this should address the problems.

Therefore the Committee considered that if the licence was suspended for 8 weeks this would give the driver sufficient time to enrol on a course and to commence attendance on the course.

The Committee appreciated that the course may not have been completed within the 8 weeks and the requirement remains to complete the course however it was considered that 8 weeks should be sufficient time for the driver to address and improve his customer relationship skills to an acceptable level for a licensed driver.

### **Decision**

To suspend the licence for 8 weeks. The driver to attend a relevant taxi training or conflict management course to level 2 NVQ standard.

### **LACHP/19/53.            Application for a New Private Hire Driver Licence (NB)**

In discussion with the applicant and licensing it was confirmed that there was an error in the DBS and the applicant had been given a 56 month prison sentence for the importation of drugs offence in 2013 of which he served half this sentence and remained on licence, under probation, for the remainder. There was also an order for the forfeiture and destruction of the drugs which is all that was noted on the DBS.

The Committee viewed the very large number of convictions held by the Applicant between 1990 and 2013 as very concerning. In particular there was a significant number of offences for drugs and dishonesty. Of most concern to the committee was that the applicant had more recent offences and after a gap in offending had clearly relapsed into the same behaviour in relation to drugs. The applicant confirmed that he was heavily using drugs around the time of all the drugs convictions.

In relation to the gap in offending between the late 1999 and 2011 the applicant stated he lived in Copenhagen for 10 years. He denied any offending during this time. When further asked about the matter for shoplifting in 2011 he confirmed he was using drugs again following the breakdown of his relationship. In relation to the most recent and most serious offence of importing a Class A drug he stated the amount was 1500 grams and he brought it from Pakistan for his own use. Again he confirmed he was using drugs heavily at the time.

The applicant stated he was in with the wrong crowd and had now left this life behind and wanted to earn more money for his family. He further stated he no longer uses drugs and came off these in prison. The Committee however considered that whilst some of the offending was old and when the applicant was younger he was aged 53 at the time of the recent drugs offence.

The Committee considered the guidelines and noted the most recent conviction fell within the last 5 to 10 years. The applicant therefore fell within the guidelines for a conviction that would normally be refused. This conviction was now over 5 years ago however the lengthy prison sentence given (including any licence period when released after serving just under half in prison) only expired less than 2 years ago.

The Committee carefully considered what the applicant said about wanting a better life for his family however given how extremely serious the most recent drugs offence including the lengthy prison sentence and the very long history of offending for drugs and dishonesty matters the Committee did not consider the applicant was a fit and proper person to hold a licence.

### **Decision**

To refuse to grant the application.

### **LACHP/19/54.            Application for a Review of a Private Hire Driver Licence (MS)**

The Committee were informed that an allegation of rape had been made by a passenger in the driver's private hire vehicle. It was confirmed that the driver had been arrested and the police were carrying out an investigation and were awaiting further forensics before deciding whether to charge however the results of these would not be available until around August 2019. The driver's representative confirmed that the driver was currently not driving and requested the committee maintain the suspension that was imposed by the licensing unit rather than revoke the licence and that the driver's licence would then expire in August in any event.

It was confirmed that the driver denied the allegation however accepted that the Committee has to consider public safety whilst he was subject to such a serious allegation. The driver was asked for further details of his account and whether it was that any consensual sexual contact took place or it was completely denied. Due to the ongoing investigation his representative stated he wanted to decline to give full details at this time however that any rape allegation was denied. The Committee had no further details from the police at this time.

The Committee accepted that no charges had been brought against the driver at present however due to the extremely seriousness nature of the alleged offence, of rape against a passenger, the Committee decided that it was in the interests of the safety of the public, particularly the most vulnerable passengers, to maintain the suspension.

### **Decision**

To maintain the suspension of the Private Hire drivers licence with immediate effect, in the interests of public safety, until the outcome of the current criminal investigation and any proceedings.

**LACHP/19/55.**

**Application for a Review of a Private Hire Driver Licence  
(BA)**

The Committee were informed that the applicant had been arrested in relation to being in possession of indecent photograph of a child. He was originally subject to bail conditions to have no unsupervised contact with any person under the age of 18. It was confirmed that the police investigation was still ongoing and the applicant's phone had been seized for forensic analysis. The police were therefore unable to confirm at this time whether the applicant had produced the image, downloaded the image or been sent the image. The result of the forensic examination were not expected until the summer.

The applicant denied having even seen the image and stated that his Facebook account must have been hacked. He further confirmed that the photo was not of his own child and that social services had closed an investigation in relation to his own child and provided a letter stating the same. When asked why there had been a social services investigation in relation to his own child he was not clear however confirmed again it had been closed now.

Given the extremely serious nature of the police allegations against the applicant relating to the possession of indecent image of a child, which are currently the subject of an ongoing police investigation, the Committee decided that it was in the interests of the safety of the public, particularly the most vulnerable potential passengers, to refuse to renew the licence. The Committee considered that due to the nature of the alleged offence they could not be satisfied that the applicant was a fit and proper person at this time.

**Decision**

To refuse to grant the renewal application.