

Licensing and Appeals Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 17 June 2019

Present: Councillor Ludford (Chair)

Councillors: Jeavons and Lynch

LACHP/19/64. 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/19/65. Application for a New Private Hire Driver Licence (MRS)

The committee considered the report submitted and heard representations from the applicant and the licensing officer.

The Committee took account of the fact that this was an isolated offence and that some 4 years had elapsed since the conviction without any further offending .

Decision

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

LACHP/19/66. Application for a New Hackney Carriage Driver Licence (AOM)

The Committee heard representations from the Applicant and the Licensing Officer.

The Committee considered the content of the report submitted, the written statement and oral evidence of the applicant. In considering the evidence submitted the Committee did not accept the version of events in relation to this incident which were put forward by the applicant. The applicant told the Committee that he had not been cheating in the knowledge test and that the examiner had planted this evidence on him the reason given that he had stereotyped him and did not like him. Additionally the applicant told the Committee that the examiner was corrupt and had been assisting another person taking the test. The Committee did not accept that there was any evidence that the examiner had been colluding with another candidate or that he had planted evidence of cheating on the applicant. This version of events appeared to the Committee to be far-fetched as it would require the examiner to pre-plan that he would carry it out and there was also no reason or motive for the

examiner to do this. The Committee was aware that the applicant has taken the test on numerous occasions and was understandably keen to pass it and in the circumstances he had taken measures to give himself an unfair advantage and had cheated on the day as described in the examiner's witness statement. This incident of cheating was aggravated by the deliberate lies told to the Committee in the hearing and, in particular, those lies concerned the integrity of a Council Officer and placed the blame on an innocent party. Honesty is a very important quality for a driver, however the Committee found the applicant to be a dishonest person and therefore determined he was not a fit and proper person to hold a licence.

Decision

To refuse the application for a new Hackney Carriage licence.

LACHP/19/67. Application for a Review of a Hackney Carriage Driver Licence (AAR)

The Committee considered the content of the report and the representations made by the applicant and the presenting officer. The Committee noted that Greater Manchester Police had concluded investigating the allegations from June and July 2018 and had decided not to take any further action. The driver told the Committee that the allegations had been falsely made against him. On questioning the driver about the allegations the driver confirmed he had applied for a passport for his daughter in June 2018, however this was for a family holiday in Spain. He told Committee he was unaware that there was a Forced Marriage Protection Order in place in relation to his daughter and was therefore, unaware that he was acting in breach of the Order. The Committee did not accept that he had been unaware of the Order being in place. The Committee considered that he would have been informed of the Order if the Order prevented him from taking any actions and did not accept that Social Services had failed to inform him. The Committee therefore, considered the applicant had deliberately flouted the Order which had been put in place to protect his daughter. This was also set against a background of previous allegations of violence having been made against the driver by his family although, it was noted these had not resulted in any criminal convictions nevertheless, there was a history of allegations having been made. One of the requirements a licensed driver is that they comply with the licence terms and conditions set by the Council in order to protect the public. In view of the deliberate breach of an Order the Committee was not satisfied the driver would comply with all requirements on his licence and therefore did not consider him to be a fit and proper person.

Decision

To refuse to renew the Hackney Carriage Driver Licence.

LACHP/19/68. Application for the Review of a Private Hire Driver Licence (SR)

The applicant and the presenting officer addressed the Committee on the application. The Committee considered the report submitted and accepted that the applicant had

been advised by his solicitor that he did not have to declare the bind over as this was not a criminal conviction. The Committee accepted that a bind over was not a criminal conviction and therefore, did not have to be declared. The Committee accepted that the circumstances which gave rise to the incident were a one off isolated incident caused by a long running family feud and the driver had an otherwise unblemished record with a long history as a licensed driver.

Decision

To take no further action.

LACHP/19/69. Applications for the Renewal of a Hackney Carriage Driver Licence and New Private Hire Driver Licence (RB)

The Committee considered the content of the report and the representations of the applicant and the presenting officer. The Committee was concerned that the applicant had not declared a pending matter, however the Committee accepted this was due to a lack of knowledge of the conditions rather than a deliberate attempt to deceive the Council. The Committee also accepted that the appellant had taken his revision papers into the exam in ignorance of the exam conditions. The Committee considered that the applicant needed to be more aware of his responsibilities as a licensed driver to ensure in the future that he fully complies with all duties and responsibilities.

Decisions

1. To grant the application for the renewal of a Hackney Carriage Licence with a warning as to future conduct of the applicant.
2. To grant the application for a new Private Hire Driver Licence with a warning placed on record of the driver as to the future conduct.

LACHP/19/70. Application for a New Private Hire Driver Licence (MRC)

The Committee considered the report submitted and the representations made by the applicant and the presenting officer. The Committee was told by the applicant that a third party had completed the application on his behalf and it was that persons mistake to fail to declare the revocation. The Committee was told that Rossendale Borough Council had revoked the licence as a result of a police investigation being carried out into a passenger complaint however, the outcome of the investigation, which took a year, was to take no further action and the applicant informed Committee that the police had apologised to him. The Applicant further explained to Committee that this decision had not been appealed as his solicitor had missed the 21 day appeal period. The Committee however, noted that in addition to not declaring the revocation on the application dated 6 November 2017 when asked how long he had been licensed by Rossendale BC the applicant answered 14 September 2015-present. This was approximately 10 months after revocation of the licence. The Committee considered that as a licensed driver the applicant must have understood the effect of revocation of his licence and in any event had been represented by a solicitor who would have explained this to him. In fact the applicant showed he

clearly understood that his Rossendale licence was no longer valid as he had not continued to use it and had applied for a licence to Manchester City Council. Therefore, the Committee considered that he had attempted to deceive the Committee by deliberately failing to declare that his Rossendale licence had been revoked. The Committee also did not accept the applicants explanation for the presence of the photographs of a computer keyboard on his phone at the test centre on 13 May 2019 when he attended to review his answers from a previous test. The Committee on the evidence determined he had attempted to use his phone in a way which was prohibited. The Committee was therefore not satisfied that the applicant is an honest person and therefore is not satisfied he is a fit and proper person.

Decision

To refuse the application.

LACHP/19/71. Application for the Renewal of a Hackney Carriage Drivers Licence (AW)

The Committee considered the content of the report and the representations of the driver and the presenting officer. The Committee noted the explanation given by the driver that there are a number of customers who fail to pay for journeys and run off at the end of a journey and he explained that he only overcharges by small amounts 20p or 40p in order to claw this back from paying customers. He explained he had charged 20p extra fuel surcharge and 20p for a service charge. The Committee accepted that there is a minority of passengers who evade payment however this will be most drivers experience occasionally and does not excuse the driver for deceiving his paying customers in order to recoup these fares. The Committee also noted that this was the third time the driver had been before Committee as a result of complaints that he had overcharged customers. It was clear therefore, that this was a long standing pattern of behaviour over many years and previous warning had not been heeded. The Committee had no confidence that the driver would charge only as lawfully set out on the fare card in the future and would not seek to cheat some of his customers. Therefore the Committee determined he was not a fit and proper person.

Decision

To revoke the licence.

LACHP/19/72. Application for a New Private Hire Driver Licence (ACF)

The Committee considered the representations from the applicant and the presenting officer. The Committee also considered the report submitted.

Decision

To grant the New Private Hire Driver Licence with a warning to be placed on the drivers record as to future conduct.

LACHP/19/73. Application for the Renewal of a Private Hire Driver Licence (JCI)

The Committee considered the report submitted and the representations made by the applicant and the presenting officer. Committee took into account the fact that the driver had been acquitted of the charge made against him. The Committee noted however, that the driver had not followed the correct procedure in notifying the Licensing Authority of a pending matter.

Decision

To lift the suspension and place a warning on the licence as to future conduct.