

Licensing and Appeals Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 16 September 2019

Present: Councillor Ludford (Chair)

Councillors: Hassan and Lynch

LACHP/19/90. Exclusion of the Public

A recommendation was made that the public is excluded during consideration of the following 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/19/91. Application for New Private Hire Driver licence (ZE)

The Hearing Panel considered the application for a new Private Hire Driver Licence. The Licensing Officer addressed the Hearing Panel on the circumstances requiring the applicant to appear before it. The applicant attended the hearing with his Solicitor.

The Hearing Panel considered the report provided along with the representations made by The Licensing Unit, the applicant and his representative.

The Committee also took into consideration their Statement of Policy and Guidelines.

The Committee concluded there has been a sufficient period for rehabilitation, and deemed ZE a fit and proper person.

The Committee disregarded the financial circumstances put forward on behalf of ZE when considering whether he was fit and proper.

Decision

To grant the New Private Hire Licence with a warning to be placed on the driver's record as his future conduct.

LACHP/19/92. Review of Private Hire Driver Licence and Renewal of a Hackney Carriage Driver Licence(FB)

The Licensing Officer addressed the Hearing Panel on the circumstances which led to the matter being brought before it. The Committee noted that there was a pattern of smoking in the vehicle which the driver admitted, however the Committee noted

that he admitted the offences and stated he would now leave the vehicle in order to smoke. The Committee accepted he regretted the incidents and had not deliberately set out to be obstructive towards the Licensing Officer.

Decisions

1. To renew Hackney Carriage Driver Licence to FB with a warning to be placed on record as to the applicant's future conduct.
2. To issue a warning on the applicant's Private Hire Driver Licence as to the applicant's future conduct.

LACHP/19/93. Review of Private Hire Driver licence (MU)

The Hearing Panel considered the review of a Private Hire Driver Licence.

The licence holder (MU) attended the Hearing and was not represented.

The Hearing Panel considered the representations made by the Licensing Unit and MU on the circumstances of the review. The Hearing Panel also took into consideration the Statement of Policy and Guidelines, in particular paragraph 3 which allows the Panel to take into account "other matters"

After considering all the evidence the Hearing Panel concluded that there was a clear history of complaints against MU which showed totally unacceptable behaviour towards passengers. The evidence presented showed that MU worked for the following companies and the following action was taken against him:
Uber - "terminated their involvement with him following complaints from passengers in July and August 2018". Kingsway Private Hire - "they disposed of his services" (due to complaints from passengers). Club/Radio Cars – Verbal Warning received about his rude behaviour to a passenger.

In addition to the above the Hearing Panel also considered MU's record held with the Council. MU had previously received a warning from the Hearing Panel on 24 August 2015 regarding his complaint history.

In light of the nature and the number of complaints made, coupled with his past history before it, the Hearing Panel concluded that MU is not fit and proper person to hold a Private Hire Driver Licence.

Decision

To revoke MU's Private Hire Driver Licence.

LACHP/19/94. Review of Private Hire Driver licence (AH)

The Hearing Panel considered a report relating to the review of a Private hire Driver Licence held by AH. The Hearing Panel also considered the representations made by the Licensing Unit and the Licence holder AH.

The Hearing Panel took into consideration their Statement of Policy and Guidelines, in particular paragraph 3 which allows them to take into account “other matters”.

The Hearing Panel considered AH’s driving convictions from the 17 November 2017 and noted the date of the convictions and also, that the court had granted exceptional hardship which allowed AH to continue to drive. The convictions were declared on the application when applying for a licence to Manchester City Council and were considered before his licence was granted.

The Hearing Panel considered the additional information that has been received from Tameside Council following the granting of AH’s licence. This related to a road traffic accident which the licence holder had been involved in. The Hearing Panel was advised that the matter was not declared to Tameside Council where AH held a hackney carriage and private hire licence.

Based on the evidence presented to the Hearing Panel, it appeared that AH does not face any criminal charges regarding the road traffic accident, and the Committee has accepted the evidence presented by AH regarding the accident.

The Hearing Panel reminded Mr Hussain that all matters must be reported and that a warning should be placed on his licence to that effect.

AH is deemed to be fit and proper person to hold a licence

Decision

To issue a warning Issue a warning to be placed on the licence holder’s record as to future conduct.

LACHP/19/95. Review of Private Hire Driver licence (TB)

The Committee has considered the report regarding a review of a Private Hire Driver Licence and the representations made by the Licensing Unit, the licence holder and his representative.

The Committee also took into consideration the Statement of Policy and Guidelines.

Whilst the convictions from the same incident fell within the guidelines the Committee were able to depart from their guidelines for the following reasons:

1. Due to the limited sentence imposed by the court for the offences concerned.
2. The fact the court had found special reasons not to endorse this driver’s DVLA licence.
3. The driver has no other convictions and so the Committee treated them as an isolated matter.
4. The extensive mitigation presented to the Committee regarding the commission of the offence.

Therefore, the Hearing Panel concluded that the licence holder is fit and proper person to hold a Private Hire Driver Licence.

Decision

To issuing a warning to be placed on the licence holder's record as to future conduct.

LACHP/19/96. Review of Hackney Carriage Driver Licence (SM)

The Licensing Officer addressed the Hearing Panel on the circumstances why the matter was before it. In questioning the driver on the circumstances, the Hearing Panel was provided with a recent medical certificate which confirmed his medical fitness to drive. The Hearing Panel heard that since the most recent incident the driver has changed his work pattern so that he no longer works during the night time. The driver stated that since changing his working patterns, he had felt less tired and has had no further complaints about his driving. The Committee was therefore satisfied that the driver had taken steps to ensure he was working more suitable hours which did not negatively impact his driving ability and was a fit and proper person to hold a licence in the circumstances.

Decision

To issue a warning on the driver's record as to future driving.

LACHP/19/97. Review of Private Hire Driver licence and Renewal of Hackney Carriage Driver licence (GA)

The Licensing Officer addressed the Hearing Panel on the circumstances of the matter before it. From questions raised it was apparent that there was a factual uncertainty about the case with no clear evidence as to the status of a police investigation. The case concerned a serious allegation and therefore in the circumstances the Committee considered it did not have sufficient information before it to make a determination as to GA's fitness to hold a licence.

Decision

To defer the hearing to 30 September 2019.

LACHP/19/98. Review of Private Hire Driver licence (KS)

The Licensing Officer addressed the Hearing Panel on the circumstances of the matter before it. The Hearing Panel heard that the driver had appealed his conviction to the Crown Court and hearing to fix a date for the appeal was set for 18 September 2019. Under the circumstances presented, the Committee agreed to defer the hearing pending the outcome of the Crown Court appeal.

Decision

To defer the hearing pending the outcome of the Crown Court Appeal by KS.

LACHP/19/99. Renewal of Hackney Carriage Driver licence (ZAW)

The Licensing Officer presented the reasons for the matter put before the Hearing Panel. In considering the submissions the Hearing Panel considered that this was an isolated driving offence in an otherwise unblemished record. The Hearing Panel took into account the fact that this was the only accident the driver had within 30 years of driving and considered there was a low risk of this being repeated. The Hearing Panel considered the driver to be a responsible driver and therefore granted the licence with a warning.

Decision

To grant the renewal of a Hackney Carriage Driver Licence with a warning placed on the driver's record as to future conduct.