
Licensing and Appeals Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 14 October 2019

Present: Councillor Ludford – in the Chair

Councillors: Lynch and Stone

LACHP/20/105. Exclusion of the Public

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/20/106. Renewal of Private Hire Driver Licence (ZR)

The Committee considered a report of the Director of Planning, Building Control and Licensing which related to an application for a new Private Hire Licence along with the representations made by the Licensing Officer and the Applicant. The Committee also took into consideration their Statement of Policy and Guidelines. The Applicant attended the meeting unrepresented.

The Committee was informed that on 19 September 2016, the Applicant was convicted of an offence of Harassment contrary to s2 of the Protection from Harassment Act 1997. He did not notify the City Council at that time that he was subject to investigation, nor that ten days after his application in 2016, he had been convicted as he was bound to do in line with the conditions of his Private Hire licence. Upon his further renewal application in 2019, the Applicant also failed to notify the City Council of that previous conviction. A subsequent DBS check however revealed the conviction. The Applicant explained he had not realised he had a conviction. He confirmed he attended Court and confirmed he had entered a guilty plea. He explained the nature of the harassment was in the form of text messages but was evasive as to the content and minimised the nature of the conviction. He stated his ex-partner had also sent similar text messages but she had taken her phone to the police and he had been arrested. He asserted that he had not known that it would be on the DBS record but had not deliberately misled the Council.

He was questioned regarding his conduct on the 28 December 2018 in relation to the Operator Sticker on his vehicle and subsequent conduct towards a Licensing Officer. He did not provide an explanation but stated the rules did not specifically state that tape could not be used. Not only did the Applicant fail to notify the Local Authority of the pending proceedings and conviction in his application for renewal dated 6 September 2019, he had also failed to declare any investigation or conviction on his Renewal application of the 6 September 2019.

The Committee was concerned in the first instance with regard to the conduct of the Applicant towards a Licensing Compliance Officer both physically and verbally; they did not find the Applicant's explanation at all credible that he was unaware of his conviction and found him to be evasive in relation to the details when questioned. The Committee paid regard to the Statement of Policy and Guidelines and noted although the conviction was in excess of three years from the date of conviction, it was within three years when the application for renewal was made. In addition, both the investigation and conviction should have been notified to the Council in 2016. Furthermore, they held the view that when completing the current renewal form, the Applicant had deliberately answered the relevant questions in the negative knowing the information he was providing was false and found his actions to be dishonest. The above factors taken together led the Committee to find the Applicant not to be a fit and proper person to hold a licence and the said licence was therefore revoked pursuant to s61(1)(b) and (2A) of the Local Government (Miscellaneous Provisions) Act 1976.

Decision

To revoke the Private Hire Driver Licence pursuant to s61(1)(b) and (2A) of the Local Government (Miscellaneous Provisions) Act 1976.

LACHP/20/107. Review of Private Hire Driver Licence (SDS)

The Committee considered a report of the Director of Planning, Building Control and Licensing which related to an application for a new Private Hire Licence along with the representations made by the Licensing officer and the applicant. The Committee also took into consideration their Statement of Policy and Guidelines.

The Applicant was legally represented by Teneka Omara – JTS Solicitors. The Committee had been notified of a complaint made by a female customer who had taken a journey on the 16 June 2019 with the Respondent which had been logged as a sexual offence but no further action taken by GMP. The Committee noted the initial complaint was made to Uber, (not GMP) and that the Complainant could not fully recollect whether 'anything bad happened'. She had recalled him coming into her apartment, pouring him a drink(s) and that he left at some point and could only say she smelt aftershave on her bed. SDS had returned the next day, (after midnight), looking for his keys and a card, the customer had not let him in to her apartment on this occasion. Uber had deactivated SDS's driver account and reported the matter to GMP, however, GMP did not contact the City Council until 6 August 2019, almost two months later. Miss Omara explained on behalf of the Applicant that he accepted driving the customer and it had been the last job of his shift. She had asked him on a couple of occasions to come to her apartment and had not appeared intoxicated. He was used to dealing with intoxicated people and she did not exhibit those signs. He had gone to her apartment, nothing had happened other than they had talked, he had drunk water and she had been upset regarding another relationship. He had left. He asserted that there had been no sexual activity. He said that he had been contacted two days later, (on the Tuesday) by Uber, that he had never been formally interviewed by GMP other than a telephone conversation in which he initially denied

entering the address but then accepted that he had. He also accepted he had returned to the Complainant's address as he had lost his bike keys.

The Committee accepted there was no evidence before them of any sexual assault and whereas SDS's conduct with a customer may not have been appropriate, there was no evidence that anything untoward had occurred. The Committee also noted that GMP had not deemed the matter serious enough to conduct a formal interview under caution but had only discussed the matter over the telephone with him. In addition, GMP had not been contacted by the Complainant, it had in fact been Uber who had reported the matter. Furthermore, it had taken two months for GMP to notify the City Council of the complaint. The Committee also noted SDS had held a licence for seven years without complaint.

The Committee was satisfied that SDS was a fit and proper person to hold a licence but dealt with the matter by way of a warning to be recorded against his licence.

Decision

To allow the Licence to continue and to issue a warning as to the future conduct of the Driver.

LACHP/20/108. Review of Private Hire Driver Licence (HA)

The Committee considered a report of the Director of Planning, Building Control and Licensing which related to an application for a new Private Hire Licence along with the representations made by the Licensing officer and the applicant. The Committee also took into consideration their Statement of Policy and Guidelines.

The Applicant was before the Committee as a result of a number of allegations made against him namely:

1. Rape between 1.7.18 and 8.2.18
2. Assault Occasioning Actual Bodily Harm (ABH) on the 1.5.19
3. Pornographic footage being found on his mobile phone involving sexual activity with a minor.

MA explained he had been engaged in a relationship with a married woman but ended the relationship because he was to go to Pakistan to get married. The married woman he had been involved with continued to contact him, came to his home with a minor, (which sometimes she said was his and other times she claimed was not), and told him she was going to destroy his life and assault his new wife. She made an allegation of Rape against him which he denied and the matter was still being investigated although he had heard nothing from the police since his arrest in May this year.

In relation to the allegation of Actual Bodily Harm, the Applicant stated his ex-girlfriend came to his home with a minor. He had offered her food and drink but she assaulted him by throwing the phone at him, spitting at him and trying to kick him between his legs. He had acted only to restrain her during which she had also bitten him and he had handed his shirt with his blood to the police for examination. His

Mother and Brother had been present at the time. He confirmed he had made a counter-allegation.

In respect of the pornographic video on his phone, he stated this was part of social media that was shared and which he had no control over. He stated this was shared by a group or groups he was in from Pakistan, (there were two or three groups he was part of on social media). He said that the police had never shown him the video but had put his phone on 'recovery' (i.e. he had deleted the video but they had retrieved it). The police said they would call him for interview but had not yet done so, though his phone had been submitted for forensic examination. The Applicant stated he received hundreds of these videos. He stated it was not his minor in the video, nor did he know the male in the video. He confirmed that he had not left those social media groups nor had he contacted the police regarding the items sent to him. He later said he had left the groups and didn't know where the videos came from.

In respect of the ABH allegation, he said that at the time he did not have a Visa and his ex-wife and her Father treated him like a 'pet' i.e. a 'Yes' man and decided to teach him a lesson by way of a false allegation when he had an argument about time spent with his sick Mother instead of them. The Committee noted the Applicant was still under investigation for allegations (1) – (3) and paid little regard at this stage to the allegations at (1) and (2) due to the passage of time with respect to contact from the police. However, whereas the Committee noted the Applicant was still under investigation in relation to the video on his phone, it was noted that he had accepted that the video had been on his phone. The Committee was concerned that he had known what the video contained as he had explained he did not recognise the male in it and the minor was not his. They were extremely concerned that he referred to being part of groups which sent hundreds of these videos and yet he had not taken any action such that he had been aware they were illegal but had not notified any authority to enable the senders to be traced, and appeared to have turned a blind eye to it/them; of particular concern was the fact the video was not only pornographic but it involved sexual activity with a minor. They noted that the Applicant stated he had deleted himself from the group but also stated he was part of those groups and did not appear to be concerned as to the gravity of the video content. The Committee noted his conflicting accounts concerning the events.

The Committee paid regard to the Statement of Policy and Guidelines and that it was applicable not only to convictions and cautions but also to 'other matters' and they had an overriding duty to public safety and to ensure vulnerable people and passengers are safe. The Committee therefore revoked the Applicant's Private Hire Driver's licence **with immediate effect in the interests of public safety** pursuant to s61(1)(b) and (2B) Local Government (Miscellaneous provisions) Act 1976.

Decision

To revoke the Applicant's Private Hire Driver's licence **with immediate effect in the interests of public safety** pursuant to s61(1)(b) and (2B) Local Government (Miscellaneous provisions) Act 1976.

LACHP/20/109. Renewal of Private Hire Driver Licence (MSAM)

The Committee considered a report of the Director of Planning, Building Control and Licensing which related to an application for a new Private Hire Licence along with the representations made by the Licensing officer and the applicant. The Committee also took into consideration their Statement of Policy and Guidelines.

The Applicant failed to attend the hearing and was not represented. Given this was his first hearing, the Committee deferred the matter to a date to be notified.

Decision

To defer the matter to 18 November 2019.