

Licensing and Appeals Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 16 December 2019

Present: Councillor Ludford – in the Chair

Councillors: Lynch and Lyons

LACHP/20/12. Exclusion of the Public

A recommendation was made that the public be 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/20/13. Review of Private Hire Driver Licence - (AH)

The Hearing Panel considered the report submitted along with the representations made by the Licensing Unit, AH and their legal representative.

The Panel heard that AH had been suspended by a senior licensing officer when Manchester City Council were notified that AH had been convicted under the Proceeds of Crime Act 2002. The Hearing Panel was advised that due to an administrative oversight the matter had not been brought before the Hearing Panel earlier.

The Hearing Panel was advised that AH had previously held a licence for 28 years and that prior to this incident AH had held a clean record. The Hearing Panel was asked to consider the letter of support provided by the Probation Service.

The Panel questioned AH about his offence and conviction and AH explained the background and circumstances of their involvement.

The Hearing Panel took the view that the offence of dishonesty was a very serious and were deeply concerned that, in view of AH's personal circumstances, AH could possibly be tempted to commit further acts of dishonesty.

The Hearing Panel considered the report from the Probation Service and concluded that there had not been a sufficient period of rehabilitation since AH was convicted of the offence. The Hearing Panel also concluded that the offence should fall in the latter end of the guidelines (which are 3-5 years) before consideration is given to granting a licence.

The Hearing Panel concluded that AH is no longer fit and proper to hold a licence due to the information in the report and discussed at the hearing.

Decision

To revoke AH's private hire driver licence.

LACHP/20/14. Application for New Private Hire Driver Licence - (MA)

The Hearing Panel considered the report submitted along with the representations made by the Licensing Unit, MA and their legal representative.

The Hearing Panel was advised that MA's application had been put on hold pending the outcome of the allegations made against them. MA's representative went through the history of the criminal proceedings and explained that their client's life had been put on hold for the last 2 years due to the proceedings.

MA explained the circumstances of the event that had led to the allegation being made against them.

The Hearing Panel found MA's versions of events to be not credible and noted that further allegations had been made against MA in 2011 and 2000.

Whilst the Hearing Panel was fully aware that MA was not convicted of any offences to the criminal standard of proof (beyond reasonable doubt) the Panel took into the account the allegations listed in the report and noted that the test it needed to consider is on the 'balance of probabilities'.

The Hearing Panel noted that there are a number of allegations against MA and have taken these into account in considering whether MA is 'fit and proper' to hold a licence. The Hearing Panel was not satisfied to the civil standard that MA is 'fit and proper' to hold a private hire driver licence in light of the above.

Decision

To refuse to grant MA a private hire driver licence.

LACHP/20/15. Application for New Private Hire Driver Licence - (AYS)

The Hearing Panel considered the report submitted along with the representations made by the Licensing Unit and AYS.

The Hearing Panel took into consideration the Statement of Policy and Guidelines.

The Hearing Panel was informed of the circumstances relating to AYS possession of a banned drug of a temporary class and conviction. During AYS submission the Panel noted that there was a contradiction in the statement made.

The Hearing Panel noted that AYS had not advised the Council that they had been working for another council despite being asked this question on their application. The Panel was satisfied that this did not show the actions of an honest person.

Having considered the information submitted and representations made, the Hearing Panel concluded that AYS is not fit and proper to hold a licence.

Decision

To refuse to grant AYS a private hire driver licence.

LACHP/20/16. Review of Private Hire Driver Licence - (MO)

The Hearing Panel considered the report submitted along with the representations made by the Licensing Unit and MO.

The Hearing Panel heard that MO is under investigation by Greater Manchester Police. The Hearing Panel questioned MO on the matter but MO did not answer any of the Hearing Panel's questions.

Based upon the information contained in the report submitted, the Hearing Panel concluded that MO's licence should be suspended with immediate effect for the reason that there is a public safety issue due to the nature of the allegation. The suspension imposed should continue until criminal investigation/proceedings have concluded when the matter could then be brought back before the Hearing Panel for consideration.

Decision

To suspend MO's Private Hire driver licence with immediate effect until the outcome of the ongoing criminal investigation/proceedings.

LACHP/20/17. Review of Private Hire Driver Licence - (MJ)

The Hearing Panel considered the report submitted along with the representations made by the Licensing Unit and MJ.

The Hearing Panel also took into consideration their Statement of Policy and Guidelines. In particular page 25 which states:

"Offence under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 and Hackney Carriage Byelaws and section 167 Criminal Justice and Public Order Act 1994.

One of the main purposes of the licensing regime set out in the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 ('the Acts') and Hackney Byelaws is to ensure the protection of the public. For this reason, a serious view is taken of convictions for offences under the Acts (including illegally plying for hire and/or touting) when deciding whether an application is to be treated as a fit and proper person to hold a licence."

The Hearing Panel heard the circumstances relating to MJ's conviction of plying for hire.

Whilst MJ's conviction falls within the policy, the Panel concluded it could depart from the policy on this occasion and determined that the suspension of MJ's licence for three months was appropriate.

Decision

To suspend MJ's private hire driver licence for 3 months.

LACHP/20/18. Review of Private Hire Driver Licence - (SOJ)

The Hearing Panel considered the report submitted along with the representations made by The Licensing Unit and SOJ.

The Panel heard from the Licensing Officer that SOJ is currently under investigation by Greater Manchester Police relating to a serious allegation.

The applicant was questioned about their involvement in the incident. SOJ gave an explanation of the circumstances of the incident.

From the information submitted and the representations made the Panel concluded that the applicant is a clear risk to fare paying passengers and not fit and proper to continue to hold a Private Hire Driver licence. Due to the public safety risk to passengers the Panel decided to revoke SOJ's licence with immediate effect.

Decision

Revoke SOJ's private hire driver licence with immediate effect due to public safety concerns.

LACHP/20/19. Review of Private Hire Driver Licence - (RZK)

The Licensing Officer advised the Hearing Panel that there was a request from RZK's solicitor to defer the matter as they were unable to attend the hearing. The Hearing Panel agreed to defer the matter to the next available Taxi Licence Panel Hearing.

Decision

To defer RZK's review until the next available Taxi Licence Panel Hearing.

LACHP/20/20. Review of Private Hire Driver Licence - (GA)

The Hearing Panel considered the report submitted along with the representations made by The Licensing Unit and GA.

The Hearing Panel also took into consideration their Statement of Policy and Guidelines. In particular page 25 which states:

“Offence under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 and Hackney Carriage Byelaws and section 167 Criminal Justice and Public Order Act 1994.

One of the main purposes of the licensing regime set out in the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 (‘the Acts’) and Hackney Byelaws is to ensure the protection of the public. For this reason, a serious view is taken of convictions for offences under the Acts (including illegally plying for hire and/or touting) when deciding whether an application is to be treated as a fit and proper person to hold a licence.”

The Panel heard the circumstances relating to GA’s conviction of plying for hire.

Whilst GA’s conviction falls inside the policy, the Hearing Panel concluded it could depart from their policy on this occasion and not revoke the GA’s licence. The Panel decided to not revoke the licence and instead imposed a three-month suspension.

Decision

To suspend GA’s private hire driver licence for 3 months.