

Licensing and Appeals Sub Committee Hearing Panel

Minutes of the meeting held on Tuesday, 25 February 2020

Present: Councillor Ludford – in the Chair

Councillors: Andrews and Madeleine Monaghan

LACHP/20/14. 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/20/15. Application for a new private hire driver licence: LFP

The Hearing Panel considered an application for a New Private Hire Driver Licence. The Hearing Panel considered the report submitted along with the representations made by The Licensing Unit and LFP.

Contained within the report were details of several offences, some of which LFP had failed to declare when applying for their New Private Hire Drivers Licence. The Hearing Panel took their Statement of Policy and Guidelines into consideration with regard to one of the offences.

The Hearing Panel deemed the offence contained within the report to be serious but noted that the incident, whilst still within the Guidelines, was some time ago and felt that LFP has changed their character and matured since.

When making their decision the Hearing Panel noted that the conviction was for a minor offence and also that a medical condition may have prevented LFP from declaring this on their application. However, the Hearing Panel took note of previous convictions/incidents and felt it necessary to issue a verbal warning with the licence.

Decision

To grant the Licence with a Verbal Warning.

LACHP/20/16. Application for a new private hire driver licence: NA

The Hearing Panel considered an application for a New Private Hire Driver Licence. The Hearing Panel considered the report submitted along with the representations made by The Licensing Unit and NA.

Contained within the report were details of a serious offence committed by NA. The Hearing Panel took their Statement of Policy and Guidelines into consideration with regard to this offence.

The Hearing Panel deemed the offence contained within the report to be very serious and noted that NA had served a custodial sentence as a consequence. During the hearing details emerged that NA was already working as a Private Hire Driver in another Local Authority. NA stated that they wanted a Private Hire Licence in Manchester as it would enable NA to assist a sick relative. Evidence was provided by NA of this illness with further documents provided as "good character" references from Councillors in a nearby Local Authority and also from a Taxi Company.

When making their decision the Hearing Panel noted that, although NA had committed a serious offence, it was some time ago and also an isolated incident. The Hearing Panel were certain that NA had matured in the intervening years as there had been no further incidents of any kind since the offence and subsequent custodial sentence.

Decision

To grant the licence.

LACHP/20/17. Application for a new private hire driver licence: MA

The Hearing Panel considered an application for a New Private Hire Driver Licence. The Hearing Panel considered the report submitted along with the representations made by The Licensing Unit and MA.

Contained within the report were details of one very serious offence and other serious offences committed by MA which they had failed to declare when applying for their New Private Hire Drivers Licence. The Hearing Panel deemed the offence contained within the report to be very serious and noted that MA had served a custodial sentence as a consequence. The Hearing Panel took their Statement of Policy and Guidelines into consideration with regard to this offence and also regarding another matter.

MA stated that they had taken advice that they would not need to declare the offence on application due to the length of time since the offence. The Hearing Panel felt that that MA should have contacted the Licensing Unit to be certain.

When making their decision the Hearing Panel noted that MA's offence was very serious, that they felt that MA had omitted to declare this offence on application purposefully and concluded that MA was not fit and proper to hold a private hire drivers licence.

Decision

To refuse to grant the licence.

LACHP/20/18. Application for a new private hire driver licence: RSM

The Hearing Panel considered an application for a New Private Hire Driver Licence. The Hearing Panel considered the report submitted along with the representations made by The Licensing Unit and RSM.

Contained within the report were details of several offences committed by RSM which the applicant had failed to declare when applying for their New Private Hire Drivers Licence. Whilst these convictions had fallen outside the Guidelines, there were several to consider and subsequently the Licensing Unit deemed it appropriate for the Hearing Panel to give their considerations on whether RSM is a fit and proper person to hold a Private Hire Driver Licence.

The Hearing Panel considered the offences contained within the report to be very concerning and noted that RSM had served community orders, paid fines, compensations and costs as a consequence. The Hearing Panel took note that RSM held a Private Hire Licence in two other Local Authorities and lived a considerable distance away from Manchester. When questioned on why RSM was seeking a licence in Manchester RSM stated that there were family members in the locality.

When making their decision the Hearing Panel noted that RSM's offences were very concerning and of a similar nature, that RSM would have known the application procedure due to being licenced in other Local Authorities yet had not declared any offences on application to Manchester. The Hearing Panel concluded that RSM was not fit and proper to hold a private hire driver licence.

Decision

To refuse to grant the licence.

LACHP/20/19. Review of a private hire driver licence: IA

The Hearing Panel considered an application for a Review of a Private Hire Driver Licence. The Hearing Panel considered the report submitted along with the representations made by The Licensing Unit and IA.

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 IA's conviction of plying for hire.

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

Decision

To suspend IA's Licence for 3 months.

LACHP/20/20. Application for a new hackney carriage driver licence: ON

The Hearing Panel considered an application for a New Hackney Carriage Driver Licence. The Hearing Panel considered the report submitted along with the representations made by The Licensing Unit and ON.

Contained within the report were details of a conviction and further cautions on the applicant's record, all similar in nature, which ON had declared on application. The Hearing Panel were aware that ON had served a suspended sentence for the offence and took their Statement of Policy and Guidelines into consideration regarding the conviction. Whilst ON's cautions were outside the Guidelines, there were several to consider and subsequently the Licensing Unit deemed it appropriate for the Hearing Panel to give their considerations on whether ON is a fit and proper person to hold a Hackney Carriage Driver Licence.

The Hearing Panel heard how no further offences had been committed by ON for a considerable length of time and gave consideration to the applicant's transparency regarding their previous convictions and cautions.

When making their decision The Hearing Panel noted that ON's offences were now historical without further incidents and that ON had matured in the intervening years. Taking the above into account the Hearing Panel felt that ON was a fit and proper person to hold a Hackney Carriage Driver Licence.

Decision

To grant the licence.

LACHP/20/21. Review of a hackney carriage driver licence: MMM

The Hearing Panel considered an application for a Review of a Hackney Carriage Driver Licence. The Hearing Panel considered the report submitted along with the representations made by The Licensing Unit and MMM who was represented by a Union member and also assisted by an interpreter at the hearing.

MMM was before the Hearing Panel as a complaint had been received by The Licensing Unit from a paying customer regarding a journey in MMM's Hackney Carriage. The Licensing Unit confirmed that the matter could have gone to the stage

of criminal proceedings but for the issue of the complainant residing outside of the U.K. and therefore unable to attend as a witness.

The Union representative questioned if it was appropriate to hold a hearing when the incident in question had not brought about any conviction at court. The Legal Advisor to the Hearing Panel informed the Union representative that the Hearing Panel had no bias at the outset of the hearing and consider evidence (hearsay or otherwise) from both parties and that, under such conditions, the hearing would go ahead.

The Licensing Unit gave details about the incident and explained that they felt the paying customer had a rightful grievance after running their own checks on the journey in question.

The Hearing Panel questioned MMM about the journey on the day in question and had concerns about MMM's responses, reasoning that the Licensing Unit presented a stronger case on behalf of the complainant. The Hearing Panel gave further weight to the complainant's case in that there had been a previous allegation in the same nature against MMM.

The Hearing Panel felt it necessary to issue a three month suspension of MMM's licence as a warning about future conduct.

Decision

To suspend MMM's licence for three months.

LACHP/20/22. Review of a private hire driver licence: BOA

The Licensing Officer advised the Hearing Panel that BOA's solicitor arrived without BOA for the hearing. BOA had taken advice to defer the matter due to being unable to attend.

Decision

To defer consideration of the hearing until the next available Licensing and Appeals Sub-Committee Hearing Panel date.

LACHP/20/23. Review of a private hire driver licence: LD

The Licensing Officer advised the Hearing Panel that LD had not arrived for the hearing and was not contactable by telephone. The Hearing Panel considered all the information contained within the report and concluded that it was safe to continue with the hearing in LD's absence.

The Hearing Panel were aware from the report that LD's licence was under Review due to a matter questioning the validity of the licence, and therefore the insurance of the vehicle. LD had received convictions as a result.

LD's convictions fell within the policy guidelines the Hearing Panel revoked LD's licence under s61(1)(a)(i) of the Local Government (Miscellaneous Provisions) Act 1976.

Decision

To Revoke LD's licence with immediate effect.