

Licensing and Appeals Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 25 October 2021

Present: Councillor Ludford (Chair) – in the Chair

Councillors: Grimshaw and Jeavons

LACHP/20/112. 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/20/113. Review of a Private Hire Driver Licence - SSAZ

The Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer and SSAZ.

The Committee was advised the reason for the initial and immediate suspension was due to Taxi Compliance being informed by SSAZ himself, of the allegation of Rape and knowing himself that he would probably be suspended.

SSAZ provided a full explanation of events to the Committee and confirmed the complainant in the matter against him had not withdrawn her complaint, but SSAZ had retained messages from her, post allegation which he had provided to the police.

The Committee was advised by the licensing officer that SSAZ had kept them informed at every stage of the proceedings and the licensing had now received information, (proof of which was shown to the Committee), that the investigation had now concluded and the police file closed. SSAZ was no longer subject to any bail conditions and no further action was being pursued.

The Committee noted SSAZ's had held a licence for some 11 years, he had instigated contact with the Taxi Licensing Unit knowing he would be suspended, they noted his full compliance with the unit and also accepted his explanation and the confirmation of closure of the case by the police. They therefore considered him a fit and proper person and lifted the suspension.

Decision

To remove the suspension.

LACHP/20/114. Review of a Hackney Carriage Driver Licence - IAS

The Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer and IAS.

The Committee was advised IAS had been charged with three offences all of which related to images of children namely, (i) Possession of indecent child sex images (ii) Making indecent photos/pseudo photographs of children and (iii) Possession of extreme pornographic images of children. All of which were on his mobile phone.

IAS explained he was by profession, a graduate in business information and a commercial pilot in the USA. He stated his phone was not only used by himself, he had previously worked the nightshift and other people could have used his phone. The offending items had been on WhatsApp Chat and there had been nothing on his 'Gallery'. They had been categorised as A, B and C.

The police had attended ten months after the date the images were recorded as being sent. He had initially not believed they were police and at his request, a neighbour had confirmed via 999 that they were genuine officers.

The Committee heard IAS had a clean DBS and was of good character and the Police were able to trace him only because his number was registered with them from when he had phoned them as a result of issues with other people's behaviour. There was no history of any complaints.

IAS confirmed he had been charged and a trial set for January next year at Crown Court.

In view of the pending trial and the nature of the offences with which he had been charged, the Committee continued the suspension pending the outcome of the trial.

Decision

To continue suspension pending outcome of trial 61(1)(b)

LACHP/20/115. Review of a Private Hire Driver Licence - AK

The Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer and AK.

The Committee heard information from AK and the licensing officer that his Application for renewal of his PHD had been referred due to an IN10 conviction (No Insurance) which was recent and fell within the policy guidelines. Initially AK had answered the motoring conviction question in the negative but later in the process gave details re the conviction in May 2021 and accompanying 6 penalty points, which fell within the major traffic convictions within the guidelines.

AK explained, during the 'COVID' period he ceased being a taxi and obtained alternative employment. His friend completed the online insurance application for him payable by way of direct debit at £97 per month. One day while going to work, he was advised by police his car was not insured and his car was seized. The insurance company had emailed his friend instead of him, and his friend had failed to tell him

they had cancelled the insurance for a week. As a result of this he received a £300 fine. He also had to pay £350 for the release of his vehicle.

The reason for cancellation had been an incorrect date of birth being submitted. The Committee reminded themselves the duty is on the driver to ensure they are insured and whereas they noted this matter was not work related, it was nevertheless a major traffic conviction, within two months of the application and in the absence of any exceptional circumstances, the policy had to be applied.

Decision

To refuse the Application in accordance with s61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

LACHP/20/116. Reviews of a Hackney Carriage Driver Licence and a Private Hire Driver Licence - IE

The Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer and IE

This was a Review of both HCD and PHD as a result of convictions for illegally Plying for Hire and No Insurance as part of Operation Aztec. IE was convicted following Guilty Pleas on the 27/8/21 and received a £450 fine for the PFH, £175 fine for the No Insurance offence along with 8 penalty points.

IE explained to the Committee he had pleaded guilty and accepted he had made a bad mistake. It was the first time it had happened, and he deeply regretted it and the impact it had, had on his family; he had two children. Taxi driving was his main job.

The Committee considered that at the time of the offence, IE was not a fit and proper person however, given the passage of time, (18 months) during which he had driven without incident or complaint and had accepted and acknowledged his guilt with remorse and insight, they therefore considered him to be fit and proper and marked the incident by way of a three month suspension.

Decision

To Suspension 3 months: s61(1)(a)(i) of the Local Government (Miscellaneous Provisions) Act 1976.

LACHP/20/117. Review of a Private Hire Driver Licence - JEO

The Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer and EI.

JEO was before the Committee following a conviction after trial in August 2021, for offences of (i) Refusing to comply with a reasonable request by a licensing compliance officer and (ii) Failing to display his Private Hire driver's badge; both relating to an incident in August 2019.

JEO had been sitting in a vehicle bearing Wolverhampton Private Hire Licence plate and he had been approached by a Compliance Officer and when asked, had refused to show him his Private Hire Driver's badge stating, 'I don't come under your jurisdiction'.

JEO confirmed he was licenced by both Wolverhampton and Manchester and went on to say the trial and conviction was a miscarriage of justice. He did not deny making the statement but claimed it had not been presented in the correct context.

The officer had told him to move from Dantzig Street and JEO had asked him not to speak to him like that as he was not a piece of trash. The officer had then told him He said if he didn't move or show his badge, he would seize my badge and prosecute me. That's when he had said, 'I'm not in your jurisdiction'.

In addition, he highlighted, there are two badges one on screen shield and one on the driver. JEO's was on the windscreen. JEO confirmed he recognised the officer as a legitimate officer, he went on to say the officer never requested his badge, any ID or documentation, they just asked him to move and he went on to claim the officers had lied.

The Committee was appalled by the behaviour and conduct of JEO. Part of the Compliance officer(s) role was to ensure the Private Hire vehicles were correctly licenced and those drivers had a duty to co-operate to maintain the integrity of the licensing regime and the reputation of the City Council. JEO had failed significantly in this regard and had been deliberately obstructive to an officer of the Council. The Committee applied the policy as these convictions fell within the two-year guideline period. They were of the opinion that although this was an isolated incident, the nature and gravity of it went against the ethos of compliance of the licensing regime. The Committee found JEO not be a fit and proper person and were of the opinion revocation was the only option.

The Committee was of the opinion, JEO was not a fit and proper person to hold a licence and revoked his HC licence under the provisions of s61(1)(a)(i) of the Local Government (Miscellaneous Provisions) Act 1976.

Decision

To revoke the private hire licence under section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

LACHP/20/118. Review of a Private Hire Driver Licence - UJ

Decision

The Committee deferred consideration of the review until November 2021.

LACHP/20/119. Review of a Private Hire Driver Licence - LS

The Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer and LS.

The Committee heard that LS had declared convictions for Illegally Plying for Hire and No Insurance as a result of Operation Aztec following a trial on the 4th of August 2020 for which he received a fine of £150 for the PFH, £180 for the offence of No Insurance along with 8 penalty points.

At the time of the offences, LS held a Hackney Carriage licence with Perth and Kinross. He had obtained a licence there as he had married but his wife's family did not approve of him and they had therefore decided to move from the area and start a new life. They had not yet moved although he had been working in Perth. The offence had been committed in Manchester whilst working as a Private Hire driver and LS claimed effectively, he had become confused between the two licences.

The Committee noted LS had held a Private Hire Licence since 2017 and the offence was committed in December 2018. The Committee did not accept LS explanation re confusion. He was registered and working for a Private Hire company on a radio and therefore knew he was operating as a Private Hire driver that evening. He hadn't accepted his guilt as he run a trial and hadn't accepted any guilt until the hearing today. The Committee considered he was not a fit and proper person at the time of the offences and notwithstanding the passage of time since the offence, they considered he was still not a fit and proper person and therefore the Application was refused.

Decision

To Refuse the renewal of the licences under s61(1)(a)(i) of the Local Government (Miscellaneous Provisions) Act 1976.

LACHP/20/120. Review of a Private Hire Driver Licence - SAK

The Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer and SAK.

The Committee heard from SAK's solicitor who explained SAK had accepted certain parts of the complaint: he accepted was taking passengers to Yorkshire and in the course of journey the weather conditions were poor. He had heard the complainant accuse him of being drunk, tired, and out of control.

SAK said he was not drunk as he is a Muslim. When the police attended there was no suggestion to undertake breath test. The passengers were agitated, and SAK was doing his best to pacify them. For whatever reason the complainants wanted to pullover. SAK stated he was going to take them to the next service station, but they didn't want him to, so he did as they asked and dropped them on the hard shoulder. SAK did wait hard shoulder for 20 minutes but as they were saying things that were untrue – he got angrier as he was taking cases out of car and putting onto hard shoulder which he accepted was unprofessional.

SAK left the scene, spoke to operator who advised him to return, which he did. He then spoke with the police and co-operated fully, taking the complainants to the next service station where the police then required passengers to pay his fare.

Compensation was also paid by the Operator for damage to their luggage. Half was paid by operator and half by SAK. SAK recognised he didn't handle it well and should not have left people on hard shoulder. He deeply regretted his actions but believed possibly because they were black, they didn't understand what a motorway was or the significance of where they were asking to be left.

The Committee acknowledged this incident happened almost a year previously on 9.12.20. There had been no complaints and no previous complaints. No complaints and never been a complaint. He had been a taxi driver 12 years with no criminal or driving convictions, he had not been subject to any prosecution in relation to the matter.

The Committee considered full submissions made by SAK's solicitor along with the three references provided including one from his ward Councillor regarding his financial circumstances. They also viewed the recorded footage of the incident on the hard shoulder.

The Committee were of the opinion that although this was an isolated incident, SAK had abandoned passengers on the hard shoulder of a motorway. The fact he believed they did not understand the significance of where they were, in the opinion of the Committee, placed a greater duty on him to ensure their safety.

Notwithstanding the passage of time or SAK's unblemished record, the Committee considered SAK's behaviour to be aggressive and unprofessional and completely unacceptable from a licenced Private Hire driver. They did not accept his account of events and considered the incident of such gravity that revocation was the only option.

Decision

To Revoke the private hire licence under section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.