

Licensing and Appeals Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 15 August 2022

Present: Councillor Andrews – in the Chair

Councillors: T Judge and Reid

LACHP/20/104. 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/20/105. Review of a Private Hire Driver Licence and Hackney Carriage Driver Licence - CMS

The Licensing and Appeals Sub Committee Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer, CMS and his legal representative.

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

The Committee reminded themselves that Hearsay evidence was admissible in the proceedings; that these were not trial proceedings requiring witnesses to attend and be cross-examined and whereas they believed the conversation outlined in the statement of the complainant, had taken place, they also attached some weight to the issues raised in respect of that statement by the legal representative.

They noted identification was not in issue and that although CMS had a number of previous complaints, they were completely different in nature.

The Committee therefore were of the opinion they could depart from the guidelines and issued a Warning.

Decision

Warning Issued (S51 & S59 LGMP Act 1976)

LACHP/20/106. Review of a Hackney Carriage Driver Licence - MAM

The Licensing and Appeals Sub Committee Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer and MAM.

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

The Committee was advised by MAM that he had been driving his own taxi at the time of the substantive offence of speeding on a motorway. He had received the Notice to provide the driver details at the time of the offence but provided false details, namely those of his friend.

The police had queried this and ultimately, the matter had been placed before the court as an MS90 (Failing to Provide Driver Details) whereupon, MAM had pleaded guilty by post and 6 penalty points had been imposed. He confirmed he gave false details to save his own licence.

The Committee applied the Statement of Policy and Guidelines seeing no reason to depart from them. MAM's conviction was a Major Traffic Offence and the conviction date the 28 June 2022. In addition, the Committee considered due to MAM's dishonest actions, he was not a fit & proper person to hold a licence. They therefore discounted the option of suspension and considered revocation the only option.

Decision

Revocation of licence (S59(1)(a) & s61(1)(b) LGMP Act 1976)

LACHP/20/107. Review of a Private Hire Driver Licence - RM

The Licensing and Appeals Sub Committee Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer and RM.

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

The Committee was informed a complaint had been received from the mother of a 17-year-old girl who had been a passenger in RM's vehicle. This complaint was in relation to a conversation that took place which was of a sexual nature. The daughter had recorded the conversation on her mobile phone and the Committee had been provided with a transcript and two audio recordings; part of one of the audio recordings was played during the hearing.

RM did not dispute he was the driver at the material time and confirmed it was him on the recordings provided.

The Committee was most disturbed and alarmed that RM thought the conversation was appropriate with any passenger in the first instance and even more so given the age of the passenger i.e., 17 years of age. They were extremely concerned that he had considered the young girl, 'happy from start to end' during the conversation and had asserted she had 'encouraged him to talk like this'.

The Committee noted RM had been arrested and interviewed by the police and had initially been subject to conditional bail; this had now been removed although the letter provided by his solicitor's, confirmed RM was still subject to investigation. The Committee also took into account RM's remorse.

The Committee was appalled by the content and explicit nature of the recordings/transcript content which was completely unacceptable for a licenced driver responsible for the carriage of passengers around the city. The actions were further aggravated further by fact the passenger was a 'Young Person' i.e., under 18. The Committee considered RM not a fit and proper person and that revocation was the only option and with immediate effect.

The Committee noted that no charges had been brought against the driver at present however due to the extremely seriousness nature of the alleged offence, the Committee decided that it was in the interests of the safety of the public, particularly the most vulnerable passengers, to revoke the licence with immediate effect.

Decision

Revocation of Licence – With Immediate effect (s59(1)(a) & 61(1)(b) and (2B) LGMP Act 1976)

LACHP/20/108. Renewal of a Hackney Carriage Driver Licence - SS

The Licensing and Appeals Sub Committee Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer and SS.

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

The Committee took into account that in April 2022 declared he had a conviction for 'touting' and no insurance as a result of a compliance operation by Trafford Council in 2020. SSr had pleaded guilty at the first opportunity and as part of his sentence had been disqualified from driving, he had unsuccessfully appealed the sentence lone as opposed to the conviction. In the interim, his Hackney Carriage licence had expired.

Having heard from SS, the Committee acknowledged his remorse, that he had accepted his guilt at the earliest opportunity and had no history of complaints or offending having held a Private Hire licence since 2011 and a Hackney Carriage licence since 2014. They therefore exercised their discretion to depart from the guidelines and treated the matter as an isolated incident but issued a Warning to be held on file. No weight attached to financial issues.

Decision

Renewal Granted – With Warning. (s59 LGMP Act 1976)

LACHP/20/109. Renewal of a Private Hire Driver Licence - MAR

The Licensing and Appeals Sub Committee Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer and MAR.

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

The Committee accepted MAR explanation as to why he had not declared his conviction for speeding in June 2021 on his Application for Renewal in December 2021 on the basis that this was a matter dealt with via the Single Justice Procedure and his Solicitors had advised him that the proceedings had not been issued within the statutory 6-month time limit and the proceedings would be withdrawn. Therefore, he considered he had nothing to declare due to the reassurances from his solicitor.

The Committee noted and accepted the reasons advanced by MAR for the substantive offence of speeding, (notwithstanding the court had not found 'Special Reasons') but considered this was not at the heart of the issue. The main issue was the non-declaration.

The Committee noted MAR had held his licence since 1999, he was a member of the Advanced Motorists Association, he had no convictions and no complaint history. They therefore exercised their discretion to depart from the guidelines and treated the matter as an isolated incident.

Decision

Renewal Granted (s51 LGMP Act 1976)

LACHP/20/110. Review of a Hackney Carriage Driver Licence - HC

HC is the subject of a police investigation and currently suspended pending the outcome of that investigation. HC's Licence expires in September 2022. HC was not seeking to challenge the suspension and via correspondence from his solicitor had asked for his attendance to be excused unless a different course of action was proposed.

The Licensing unit were dealing with the additional query of the expiration/renewal Application in the interim.

The Licensing and Appeals Sub Committee Hearing Committee confirmed the suspension, with immediate effect should continue pending the outcome of the investigation.

Decision

To continue with the suspension of HC's Hackney Carriage driver's licence with immediate effect, in the interests of public safety, until the outcome of the current criminal investigation and any proceedings when the matter is then to be brought back before Committee for consideration.

LACHP/20/111. Review of a Private Hire Driver Licence - MAK

The Licensing and Appeals Sub Committee Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer, MAK and his legal representative.

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

The Committee noted that MAK believed the Licensing Unit was aware of his two convictions for Plying for Hire and No Insurance as Manchester City Council had been the prosecuting body notwithstanding it was still his duty to notify them and to answer questions on his application form.

However, they noted there was a glitch on the Licensing Unit system whereby details of the conviction had been notified but had not been input into their system and therefore there were errors by both parties. They noted MAK had entered guilty pleas, that the offences dated back to 2019 and 2020 and the disqualification period was concluded/spent having been imposed on the 29 July 2021. They also noted MAK had no previous history of complaints.

The No Insurance matters were major Road traffic offences and fell within the 2-year guidelines. However, due to the above, the Committee was of the opinion they could exercise their discretion and depart from the guidelines issuing a warning but emphasised the seriousness of the offences.

Warning Issued (s51 LGMP Act 1976)

LACHP/20/112. Renewal of a Private Hire Driver Licence - WS

The Licensing and Appeals Sub Committee Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer and WS.

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

The Committee noted that this was a matter that had been dealt with by way of Restorative Justice process of which both parties, (Complainant/offender) have to agree to. The Committee noted this allegation related to a female passenger being driven home and subsequent harassment by way of text messages – some of which were alleged to be sexual in nature – and a complaint was made to the police on that basis.

The Committee accepted WS's explanation and his denial there was any sexual context. The Committee was of the opinion there was no evidence presented to support the assertion of this content, the Restorative Justice process did not appear to have been conducted inside the police station and they noted WS's remorse in respect of the incident.

The Committee noted WS had held a Private Hire licence since 1999 and had only a single complaint on his file dating back to 2011 and which was of an entirely different nature. The Committee reminded themselves Restorative Justice is not to be treated as a conviction and that WS had no other convictions recorded against him.

They therefore exercised their discretion to depart from the guidelines and treated the matter as an isolated incident.

Decision

Renewal Granted (s51 LGMP Act 1976)