

## **Licensing and Appeals Sub Committee Hearing Panel**

### **Minutes of the meeting held on Monday, 20 February 2023**

**Present:** Councillor Andrews – in the Chair

**Councillors:** Evans and T Judge

#### **LACHP/23/13. 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/23/14. Review of a Private Hire Driver Licence - SMM**

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

The Licensing Unit officer addressed the Hearing Panel, stating that, on 14 October 2022 SMM informed Licensing that they had received a fixed penalty notice (FPN) for an SP50 - Exceeding speed limit on a motorway conviction committed on 14 May 2022 and received the penalty on 1 September 2022. It was noted this conviction fell within the Policy and guidelines. SMM also had a previous intermediate traffic conviction for an offence committed on 15 March 2022, for which they received a Stage 1 warning letter. SMM had now accrued 9 penalty points, 2 of the attached offences within the guidelines. The licensing unit had sent a warning letter prior to the second offence.

SMM addressed the Hearing Panel and stated that they were ashamed of themselves but expressed that they had had difficult circumstances over the last 12 months which had affected concentration. Outside pressures were linked to the cab firm which could easily bring in replacement drivers.

The Licensing Unit Officer asked SMM if they had been driving their registered vehicle at the time of the offence and SMM confirmed that they were but did not have passengers on board.

The Licensing Unit Officer asked SMM about an incident on the motorway and SMM explained that there had been a person threatening to jump off a motorway bridge, which had held traffic up for some time. Once this had cleared up, cars were rushing to make up lost time and SMM felt pressure from drivers behind them to speed up.

In their deliberations, the Hearing Panel considered that SMM had been a driver since 2001 with a relatively clear record for this length of service. The Hearing Panel found SMM to be honest and genuinely remorseful regarding the incidents on record.

### **Decision**

To issue a warning as to further conduct.

### **LACHP/23/15. Review of a Private Hire Driver Licence and a Hackney Carriage Driver Licence - SASH**

The Hearing Panel considered the The Licensing Unit officer's comments, explaining to them that SASH had written to the unit requesting to attend the next meeting in March due to being abroad.

### **Decision**

To defer SASH's hearing until 20 March 2023.

### **LACHP/23/16. Renewal of a Private Hire Driver Licence - TG**

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

The Licensing Unit officer addressed the Hearing Panel, stating that TG had submitted a renewal in August 2022 and declared a conviction of CU80 - Breach of requirements as to control of vehicle (mobile phones etc). TG had provided a statement regarding the incident, explaining that they were not driving a non-licenced vehicle, was stopped by the police for being seen using a mobile phone whilst driving and had accepted a fixed penalty notice, receiving 6 penalty points. The incident occurred in August 2021 but TG had not immediately informed the unit but had done so on their renewal. It was explained that the licence review had been delayed for two main reasons:

1. TG's apparent failure to disclose the conviction immediately in accordance with licence conditions, and
2. A copy of the DVLA summary though requested at the time the private hire driver renewal application was submitted was not provided until 19 December 2022.

TG had been supposed to appear before the Hearing Panel last month but this was deferred.

TG addressed the Hearing Panel and stated that he was aware of a new law to declare any convictions coming into operation in September and had done so on their renewal accordingly. TG stated that their daughter had been in hospital and that they themselves had a sick note due to back problems, hence missing the previous month's hearing.

The Licensing Unit officer asked TG what vehicle they had been driving at the time of the offence and TG stated it was a truck, not their licensed vehicle. TG confirmed that they had accepted the penalty as their mistake, knew now to tell the unit immediately of any other offences, was looking to get back into taxi driving work again and would work for a firm in North Manchester.

In responding to questions from the Hearing Panel, TG stated that they hadn't answered the call but was holding the phone to stop it ringing when a police officer saw them. TG confirmed now that they knew that even picking up a phone whilst driving is an offence.

In their deliberations, the Hearing Panel considered that this was an isolated incident and felt that they could depart from the guidelines. The Hearing Panel did note, however that TG had not declared the incident immediately and issued a warning as this is considered a serious traffic offence.

### **Decision**

To grant TG's licence renewal with a warning attached as to future conduct.

### **LACHP/23/17. Review of a Private Hire Driver Licence - MI**

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

The Licensing Unit officer addressed the Hearing Panel and stated that the unit had been informed by MI's operator on 7 September 2022 of a complaint from a female passenger. The unit had made enquiries and details were shared of the complaint whereby a female passenger stated that MI had made inappropriate comments to her regarding how beautiful she was and that spoke of wanting a partner like her. This made the passenger feel extremely uncomfortable for the duration of the journey and she expressed that MI shouldn't be speaking to lone female passengers in this way. MI was contacted about the incident and denied that this conversation occurred and added no further information. This triggered a warning letter to be sent to MI. In January 2023, another complaint of a matching nature came from the operator, the female passenger was contacted who confirmed the details in the report. The female passenger requested that this driver was not sent to her again. Following this, the unit requested further historical incidents from the operator and found one other to be of a similar nature.

MI asked the officer about the complaints and the Licensing Unit officer stated that they were all in the report and had MI seen a copy. MI confirmed that they had a copy of the report, adding that the email address provided for the unit to contact MI on was their daughter's and that they had not received any phone call about the incidents.

MI then addressed the Hearing Panel and stated that they recalled the first incident as MI had assisted the passenger with bags. MI stated that they had just talked politely about work and family matters.

The Licensing Unit officer read the first female passenger's statement to MI and asked if he recalled any of the conversation. MI again stated that they had exchanged polite talk, adding that they know it is not appropriate to discuss things mentioned in the passenger's report.

The Legal adviser to the Hearing Panel asked MI if they had read and understood the report papers for the hearing and MI confirmed that their partner had read them to MI.

The Licensing Unit officer confirmed the email address with MI who confirmed that this is the email address they had provided to the unit. MI said that it was possible that their daughter had missed the email with the warning letter attached and therefore not informed him.

The Licensing Unit officer asked if MI felt that it was their responsibility to make sure they have access to correspondence and MI replied saying it was their daughter's mistake.

MI confirmed the daughter to be 23 years of age.

The Licensing Unit officer then read the statement from the second female passenger, stated that MI had provided no response and asked if MI recalled this incident.

MI again stated that they would not speak this way with a passenger.

When asked if the 2 complaints were of concern, MI stated that they thought they would be called in for an appointment.

The Hearing Panel asked MI if their operator had restricted all current work and MI confirmed this.

In their deliberations the Hearing Panel felt that the pattern of complaints could not be ignored, especially noting the similarities between them, and considered that MI was not a fit and proper person to be transporting passengers. The Hearing Panel noted paragraph 14 of the policy and guidelines regarding conduct and statutory guidance regarding the safeguarding of the public in making their decision.

## **Decision**

To revoke MI's licence with immediate effect on grounds of public safety.

## **LACHP/23/18. Review of a Private Hire Driver Licence - RM**

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

The Licensing Unit Officer addressed the Hearing Panel and stated that RM had notified the unit on 2 February 2023 of an IN10 offence, using a vehicle uninsured against third party risks, attracting 6 penalty points which was a major traffic

offence and falls within the policy and guidelines. RM had also provided the DVLA code for the unit to extract all details. RM had no other incidents on record and this was an isolated incident.

RM addressed the Hearing Panel and stated that they were working part-time in another job at a take-away. The owners had asked RM if they could make a delivery and, having business insurance, RM felt that they were covered to do this. RM was stopped by the police who gave him points for having the wrong type of insurance for deliveries. RM stated that they were looking to get back into taxi work again so wanted to rectify any issues with the city council.

In responding to questions from the Licensing Unit officer, RM stated that they were in their own private vehicle when stopped by the police, that they were stopped as part of late night/early hours routine checks after 2am and that they had checked with their broker and thought that they were covered for the delivery.

In their deliberations, the Hearing Panel considered that this was an honest mistake and an isolated incident.

### **Decision**

To take no action against RM's licence.

### **LACHP/23/19. Review of a Private Hire Driver Licence - SMAB**

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

The Licensing Unit officer addressed the Hearing Panel, stating that the unit had asked for a DVLA summary in November 2022. This had revealed an MS90, failure to give information as to identity of driver etc, a major traffic offence, which falls within the policy and guidelines, accruing 6 penalty points and considered a major traffic offence. The unit felt that it was better to have the court decision before referring to the Sub-Committee.

SMAB addressed the Hearing Panel and stated that their father was very ill at the time and they had put the matter to one side while dealing with the family issue and making regular trips to and from London. SMAB's father then died, making SMAB very upset. Also, as the eldest child, the responsibility fell upon SMAB to arrange the funeral in Pakistan and other matters. On returning, SMAB dealt with the letter, went to Court and received points and a fine.

In responding to questions from the Licensing Unit officer, SMAB stated that they were stressed and forgot about the letter, had applied to court with an explanation regarding the incident, confirmed that it was a speeding offence for going 64mph in a 50mph limit stretch of motorway and didn't provide driver details in the allotted timeframe.

In their deliberations, the Hearing Panel considered that SMAB had given an honest account of circumstances but felt that they could have saved themselves from additional difficulties by dealing with the matter in a timely fashion.

**Decision**

To attach a warning to SMAB's licence as to future conduct.