

Licensing and Appeals Sub Committee Hearing Panel

Minutes of the meeting held on Tuesday, 18 September 2018

Present: Councillor Ludford (Chair) – in the Chair

Councillors: Chohan and S Lynch

LACHP/18/65. Exclusion of the Public

A recommendation was made that the public is excluded during consideration of the 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/18/66. Application for a Review of a Hackney Carriage Driver Licence (MAM)

The Committee considered the statements from members of the public as to the alleged discriminatory and aggressive behaviour of the applicant in two recent incidents. These were firstly of refusing a passenger with an assistance dog and secondly of refusing a passenger in wheelchair. They also considered the explanations offered by the applicant at Committee and the previous comments the applicant had made when spoken to by officers after the allegations had been made.

The Committee did not find the applicant's explanation of the incidents to be credible and noted that these were not consistent with what he had said to officers when initially spoken to about the allegations. It was also noted that when asked about his refusal to take a passenger in a wheelchair by the enforcement officers he stated he 'did not care'.

The Committee were very concerned that there has been two complaints of discriminatory behaviour over a relatively short period of time which showed a pattern of very inappropriate behaviour and a complete disregard for the equality legislation and standards expected of drivers. The Committee were also concerned by the language alleged to have been used by the applicant towards members of the public in relation to the refusal to take a guide dog incident when the victims state he swore at them. The statements showed that the applicant's behaviour had been deeply upsetting and humiliating for the members of the public who had been treated badly due to being blind or in a wheelchair.

The Committee take their equality duties extremely seriously and did not view that the applicant was a suitable person to hold a licence with Manchester City Council at

this time given his recent discriminatory and aggressive behaviour towards members of the public.

The Committee also note that the applicant has had a number of previous allegations of violent behaviour towards former partners. Whilst it was accepted by the Committee that none of these resulted in a convictions is was suggestive of a pattern of aggressive behaviour supported by his aggressive language used towards the recent complainants. It was also noted that he had quite a poor driving record with a number of traffic convictions including a 6 month disqualification in December 2013.

Given all the above the Committee concluded that the applicant was not a fit and proper person to hold a licence and refused to grant the renewal.

Decision

To refuse to grant the renewal.

LACHP/18/67. Application for a Review of a Private Hire Driver Licence (MS)

Preliminary matter – The Committee were informed that there was a typo on the report and the driver was referred to by the wrong surname in paragraph 3 of the report however all the details were in relation to this driver and were correct.

The Committee were informed of the very recent convictions for plying for hire and no insurance. The Committee confirmed they took these offences very seriously.

The Committee considered the explanation provided by the driver that he had been previously assaulted by two males five years ago when he refused to take them. They however noted that in relation to his recent conviction there was no suggestion by him that the two female passengers he agreed to take were aggressive or he had any reason to fear for his safety.

He agreed to take the passengers fully aware that his actions would have invalidated the insurance for his vehicle and put the passengers at risk.

The Committee also noted that this driver was not one with an exemplary history and had previously driving convictions including driving without due care attention in January 2014. He had also previously been given warning by committee in January 2015 in relation to this driving offence.

The Committee considered their guidelines which state on a new application they usually require 2 years conviction free for the offences of plying for hire and no insurance. In this case the convictions were both very recent being on 6 June 2018 meaning a licence would not normally be considered until June 2020.

The Committee considered the fact that the driver said that he was remorseful they were however of the view that they had not heard sufficient mitigation in relation to the offences or sufficient evidence that the driver is a fit and proper person to take such a large departure from their guidelines.

The Committee concluded based on all the information before them that the applicant was no longer a fit and proper person and that his licence should be revoked.

Decision

To revoke the licence.

LACHP/18/68. Application for a Review of a Private Hire Driver Licence (GN)

The Committee considered the details provided by the applicant as to his fear of dogs and his allergy to dogs which requires him to take medication on the occasions he comes into contact with dogs due to a family member now owning a dog. They also took into account that the vehicle he drives has no fixed partition between the driver and passenger compartment.

The evidence provided from the medical practitioner detailed that he takes medication for his allergy to dogs and that he has a fear of dogs after being bitten as a child. The medical practitioner also requested that due to this he is no longer required to transport dogs within his car.

On the basis of the evidence provided the Committee were satisfied that it was appropriate to issue the applicant with an exemption certificate on medical grounds.

Decision

To grant the exemption application.

LACHP/18/69. Application for a Review of a Private Hire Driver Licence (SRHS)

The Committee viewed that the two battery charges were very serious and the details provided by GMP as to the nature of the assaults were very concerning including punching a female to the back of the head and slapping her across the face over an argument about money. The assaults also referred to the driver driving towards the female however then swerving at the last minute. The Committee did not take this matter any less seriously as it was a domestic assault.

The Committee considered the explanation provided by the driver's representative as to why he did not report these offences in that he was originally sent to prison for the assault however this was then reduced to a community order and he was released a week later. The Committee noted he received a community order and would have been working with probation in relation to his offending and did not accept the suggestion he thought it was all dealt with and no need to declare the convictions to the council.

The Committee noted he had twice been asked about whether he had any criminal convictions since the assault and had been dishonest on each occasion by putting no each time. He had also signed two declarations to state he had no convictions. It was also a condition on his licence to report and convictions to Licensing immediately

which he failed to do. As this information has not been otherwise provided to Licensing they were only aware when his most DBS was received.

The Committee viewed that his failure to report the convictions and then providing false information on the renewal forms was a deliberate attempt to deceive the Council to avoid any action being taken on his licence. With convictions for violence of this nature the guidelines would normally require any renewal to be refused however the applicant has been allowed to continue to drive due to his dishonesty.

The Committee were concerned with public safety and the need to protect the public from dishonest and violent persons. Taking all of the information into account the Committee viewed that the driver was not a fit and proper person to hold a licence.

Decision

To revoke the Licence.

LACHP/18/70. Application for a Review of a Private Hire Driver Licence (YAK)

The Committee were informed that the driver's licence has been suspended following an allegation of rape on a female passenger.

The driver explained to the Committee that he had finished work around 3am when the female and her friend asked if he would take one of them. The friend had offered to go with the alleged victim however she had stated she would be okay. He then agreed to take the female home. When it was put to the driver that he had admitted to plying for hire and that this would have invalidated his insurance as the female was not a booked job he accepted that was the case.

When asked about the sexual allegation from this passenger he denied this. The driver said after he had picked up the female passenger they then had consensual sexual intercourse in a secluded place near the female's home. He denied saying he was cleaning up vomit when approached by her husband and that he was getting something out of the back of the vehicle that the female had left behind. When asked how it came that he had not dropped her off until 5am and driver stated he was unsure of the timings.

When it was suggested to the driver the female was intoxicated having been helped by her friend into a taxi at 3am he denied this was the case. He also said her husband was incorrect to allege this.

The Committee were informed that the alleged victim had declined to proceed further with the investigation and therefore GMP had no option but to take no further action.

The Committee accepted that the criminal investigation was now closed and no legal action was being taken for the rape accusation however viewed that it was completely unacceptable for a driver to pick up a lone female in the early hours of the night, who may have been drinking whether to excess or not and may have been

vulnerable, and then engaging in sexual intercourse with her in the back of his private hire vehicle.

The committee confirmed that private hire drivers were expected to only take booked jobs and to ensure they get all female passengers they pick up to their destination and nothing further. It was not the actions of a fit and proper person to behave as the driver had on this occasion.

The Committee therefore decided to revoke the licence with immediate effect.

Decision

To revoke the licence with immediate effect.

LACHP/18/71. Application for a Review of a Private Hire Driver Licence (BR)

The Committee were informed of the conviction for plying for hire in Salford however noted that this did not include the usual additional offence of no insurance as the driver had actually held valid public hire insurance to pick up passengers.

The Committee considered the explanation provided by the driver that he had a legitimate reason to be in the area and that the females had just got in when he stopped to use the facilities after dropping off a job nearby and he had no intention to take them. The Committee confirmed however that whilst he may have initially had a legitimate reason to be in the area he had been found guilty by the Court of plying for hire and therefore allowing these females into his taxi when he did not hold a taxi licence in Salford allowing him to do this.

The committee however also accepted that he had only been given a conditional discharge for the offence which supported the explanation he did not originally intend to pick up the booked job however then took the opportunity.

The Committee confirmed they took the offence of plying for hire seriously and the driver was still well within the guidelines to refuse a licence however they viewed that they could depart from the guidelines due to the fact the public were not at risk with the insurance being in place.

The Committee viewed that it was important for the driver to consider the seriousness of his actions and the fact that plying for hire is a fundamental breach of the taxi licensing regime and therefore decided to suspend his licence for 2 months to allow him to reflect on this and ensure he behaved in a proper manner in the future.

Decision

To suspend the licence for a period of 2 months.

LACHP/18/72. Application for a Review of a Private Hire Driver Licence (LOA)

The Committee heard from the applicant's solicitor that the allegation, initially against the applicant, was one of mistaken identity. The applicant gave details that he was working on shift at a hospital in Wythenshawe on the day of the assault and this had been confirmed by the hospital. He also confirmed that he moved around to different hospitals with the agency he works for however had never worked in Oldham. The Committee accepted this account and that it was supported by the fact GMP had arrested someone else after releasing the applicant and had taken no further action against the applicant.

The Committee therefore agreed to grant the renewal.

Decision

To grant the renewal.

LACHP/18/73. Application for a Review of a Private Hire Driver Licence (SKW)

The Committee were very concerned at the serious nature of the assault occasioning actually bodily harm and noted that this still fell within their guidelines as a violence offence for which a licence would normally be refused. It was clear that serious injuries were caused to the applicant's ex-wife during the assault. The Committee confirmed they took this matter no less seriously due to it being a domestic incident.

The Committee were also concerned at the very poor driving record of the applicant. The Committee were informed he had now been disqualified from driving on three occasions since being granted a DVLA driving licence. He also failed to fully disclose his driving disqualifications on his application. His first disqualification was for obtaining more than 6 points on his licence within the first two years. His second disqualification from driving was in 2009 for then driving whilst disqualified. His third disqualification was then in 2016 for totting up. This demonstrated a pattern of inappropriate behaviour and lack of regard for driving laws.

The Committee were concerned with public safety and only granting licences to drivers who were fit and proper person with good driving records and who would not pose a risk of violence to passengers. Given the serious violence conviction that was still within the guidelines and the apparent disregard for driving laws, resulting in the driver being disqualified from driving on three occasions, the Committee viewed that he was not a fit and proper person to hold a licence.

Decision

To refuse to grant the application.

LACHP/18/74. Application for a Review of a Private Hire Driver Licence (FI)

The Committee were informed that an allegation has been made against the driver for sexually assaulting a vulnerable female whilst he was acting as her carer. The Committee received an update that the matter has now been reviewed by a Crown

Prosecution Service (CPS) lawyer and the decision has been made to charge the driver with sexual assault.

The driver denied the allegation and gave details of the fact that the female accused him of touching her breast. When asked more about this he stated he did not know exactly what she said had happened but that the accusation was of touching her over her clothes. With regards to the care work he provides he said he had assisted her in getting dressed as usual and he had been making her a meal which she was not happy with and she was annoyed at him. He denied any sexual contact.

The Committee accepted that no charges had been brought against the driver at present however they had been informed that charges had been approved by the CPS and therefore the CPS were satisfied there was sufficient evidence. Due to the extremely seriousness nature of the alleged offence, of sexual assault against a vulnerable female, the Committee decided that it was in the interests of the safety of the public, particularly the most vulnerable passengers, to maintain the suspension.

Decision

To suspend (i.e. maintain the suspension) of the Private Hire drivers licence with immediate effect, in the interests of public safety, until the outcome of the current criminal investigation and any proceedings.

LACHP/18/75. Application for a Review of a Private Hire Driver Licence (MAK)

A request was received from the driver's solicitor for the matter to be adjourned until after the trial hearing for the matters with which he is currently charged, which is on 19 September 2018. It also became apparent that the driver required an interpreter. The Committee agreed for the matter to be adjourned with the suspension imposed by the licensing officer to be maintained until the next hearing in the interests of public safety.

Decision

1. To defer the matter to 16 October 2018.
2. To suspend (i.e. maintain the suspension) of the Private Hire drivers licence with immediate effect, in the interests of public safety, until the outcome of the current criminal investigation and proceedings.