

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

### **Minutes of the meeting held on Tuesday, 16 October 2018**

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

**Councillors:** Jeavons and McHale

#### **LACHP/18/80. 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/18/81. Application for a Review of a Private Hire Driver Licence (HY)**

The Committee heard representations from the Licensing Officer and the driver.

The Committee was advised that the driver had been suspended on the 9<sup>th</sup> February 2018 for possessing suspected indecent images of children on his mobile phone.

It heard that the matter had come to light when he had applied to be a driver with Club Cars and was requested to hand over his phone so that the Operator's booking software could be loaded to the mobile device. It was at this point that the indecent images of children were spotted and the Police were contacted to report the matter.

The Committee heard from the driver that the pictures on the phone were those of his son but he had not realised this at the time of handing the phone over.

The driver was called to the Committee on the 13<sup>th</sup> March 2018 and stated at such time that he had originally believed that the photos of a young male were on the phone when he bought it second hand and that he did not use the phone or charge it properly. He further went on to say that he had since become aware that the photos taken were that of his son and taken by his daughter.

The Committee heard that the driver had been bailed pending investigation but that these conditions had been lifted and that he was formally notified that no further action would be taken as the CPS had decided there was insufficient evidence to charge.

In addition, the Committee was advised that the driver had motoring convictions for no insurance and excess speeding and Consumer Protection offences.

In relation to the motoring offences the Committee was advised that the driver had failed to notify the Licensing department, as he was required to do so, that he had convictions.

The Committee was extremely concerned about the images and were not satisfied with the conflicting explanations given as to how they had come to be on the driver's phone. The exposure of such images, to a third party, gave the Committee cause for concern that the driver was fit and proper to hold a licence.

The Committee also noted that the driver had failed to disclose his motoring convictions to the Licensing Department and did not accept that it was a mere oversight as he had been requested by an operator, namely Uber, to provide such details to them before they could consider employing him as a driver.

The Committee felt that he had deliberately avoided notifying the licensing department to avoid his licence being the subject of scrutiny with possible action being taken in relation to it.

Finally, the Committee noted that the driver had convictions which contravened the fire and electrical safety regulations, involving consumer protection offences and felt unhappy about allowing the applicant to retain his licence to provide a service to members of the public

The Committee concluded that the Applicant was not a fit and proper person to hold a Private Hire Licence.

### **Decision**

To revoke the licence.

### **LACHP/18/82.      Application for a Review of a Private Hire Driver Licence (TC)**

The Committee was advised that the driver did not intend to appear at the Committee hearing and that it was his intention to surrender his driver's licences.

The Committee was happy to proceed with the matter in the absence of the driver.

It was then advised about an incident that had occurred in July 2017 where a complaint had been raised about the drivers conduct.

Video evidence was produced to the Committee which showed the driver being challenged by a Hackney Carriage driver about him plying for hire. Evidence was produced that the driver did not have a pre-booking.

The video showed the driver picking up a passenger and then moving off with the Hackney carriage driver on the bonnet of the vehicle for approximately 100 yards before eventually coming to a stop.

The Committee was also made aware that there is a pending prosecution for another plying for hire matter which occurred in April 2018.

The Committee was also referred to a caution for battery that had been administered by GMP in October 2017 and numerous motoring offences that had occurred outside the Council's Guidelines.

The Committee considered the circumstances of the offences and was not satisfied that the Driver was a fit and proper person to hold a drivers licence.

It was satisfied after viewing and hearing all the evidence that the driver had been plying for hire in July 2017 and was of the view that his actions on the night in question were not of the standards expected of a licensed driver. It was satisfied that he had put, not only the hackney carriage driver but members of the public in serious danger of being injured.

It also noted that the driver had a caution for battery in October 2017 that fell within its guidelines and saw no reason to depart from them.

### **Decision**

To revoke both the Hackney Carriage and Private Hire Driver's licences.

### **LACHP/18/83. Application for a Review of a Private Hire Driver Licence (WAT)**

The Committee heard representations from the Applicant and the Licensing Officer.

The Committee was referred to the report and in particular to a conviction for plying for hire / no insurance whilst working near to the Etihad stadium in June 2017.

The Committee heard that the driver had admitted the offence at the scene before pleading guilty to both offences at the Magistrates Court on the 2<sup>nd</sup> February 2018.

It also noted that the Applicant had notified the Licensing Department immediately after the court hearing.

The Committee was aware that the Applicant had an unblemished record as a taxi driver.

The Committee took account of all representations made by both parties.

Whilst the convictions were within the Council's guidelines the Committee was not minded to revoke his licence.

Committee recognised that the driver had an unblemished record for 13 years and noted that he had admitted his guilt both at the scene and at the court hearing at the earliest opportunity.

It formed the view that it would be inappropriate in the circumstances to revoke his licence and felt that a period of suspension was the appropriate sanction to apply.

### **Decision**

To suspend the licence for a period of 3 months.

#### **LACHP/18/84. Application for a New Hackney Carriage Driver Licence (NA)**

This item was withdrawn prior to the hearing.

#### **LACHP/18/85. Application for a Review of a Private Hire Driver Licence (HJ)**

The Committee heard representations from both the driver and the Licensing Officer.

The Committee was advised that the driver had been convicted of an offence of plying for hire / no insurance after trial on the 23<sup>rd</sup> July 2018.

The Committee heard a full account of the circumstances that had given rise to the offence and took into account what the driver said.

Despite a trial of the evidence at Court resulting in a conviction, the driver took no responsibility for his behaviour and maintained that he had been helping a friend out by giving them a lift home

The Committee viewed plying for hire / no insurance offences extremely seriously and noted that it was a recent conviction.

It saw no reason to depart from its guidelines and was satisfied that the driver was not a fit and proper person to hold a licence.

### **Decision**

To revoke the licence.

#### **LACHP/18/86. Application for a New Hackney Carriage Driver Licence (SA)**

The Committee heard representations from the Applicant and the Licensing Officer.

The Committee was referred to the report and to historic complaints made against the driver and a conviction for battery from 2014. It heard that the Applicant had been brought before the Committee in June 2015 and that his application for a licence had been refused.

The Committee heard from the Applicant that he was very ashamed about his behaviour in 2014 and fully understood the upset this would have caused his wife at the time.

He stated that he was at a low ebb in his life at this time and accepted that his behaviour had quite rightly brought into question his position as a licensed driver.

He asked the Committee to consider that he was now a reformed character and wanted to put the past behind him.

Whilst the Committee was concerned about the serious nature of the driver's past offending it felt that the Applicant had sufficiently demonstrated that he had learnt a harsh lesson and was genuinely remorseful about his actions.

The Committee also recognised that the conviction for battery now fell outside its guidelines and was satisfied that the Applicant was a fit and proper person to hold a drivers licence.

### **Decision**

To grant the application with a warning as to the future conduct of the driver.

### **LACHP/18/87. Application for a New Hackney Carriage Driver Licence (AY)**

The Committee heard representations from both the Applicant and the Licensing Officer concerning the Application.

The Committee was advised that the Applicant had an extensive history of offending which brought into question his suitability as a licensed driver.

The Committee was referred to the report and in particular to a range of offences spanning the period 2004 – 2012 which involved offences for fraud , offences against the person and motoring offences .

The Committee was made aware of 2 recent intelligence reports from GMP that had been provided to the Licensing department. One incident in 2015 appeared to suggest that the Applicant had alleged links to gangs within the Cheetham Hill area of Manchester whilst a second referral pointed to the apparent misuse of forged John Lewis vouchers to the value of £600 at the Trafford centre in 2016.

The applicant acknowledged the intelligence referred to and responded by stating that GMP had accepted his explanation that he had been mistaken for somebody else in relation to the 2015 incident. Concerning the incident in 2016 he provided an explanation that he had purchased the vouchers in all innocence, for a reduced price, believing them to be genuine and had done so with a view to purchasing a phone for a relative / friend.

In relation to the fraud offences the Committee was advised that these had arisen following a suspected cloned credit card being used unlawfully to obtain petrol at various petrol stations.

The Applicant accepted that he had committed all the offences referred to in the report but stated that he had changed his life around and was a different person now.

He produced references to support his good character and stated that he had been issued with a taxi licence by Sefton Borough Council, a fact unbeknown to Manchester City Council Licensing Department.

The Committee was not satisfied that the Applicant was a fit and proper person to hold a licence.

Although the convictions were outside of the Council's guidelines the Committee was extremely concerned at the nature of the offending and whether or not the Applicant would be capable of upholding the standards expected of a licensed driver.

It felt that there was a pattern of behaviour that could not be ignored and was not satisfied with the Applicant's responses in relation to the information provided to the Licensing Department about intelligence against him in 2015 and 2016. Specifically with regard to the discounted vouchers, the Committee questioned the legitimacy of his claims that he believed they were genuine vouchers and his manner and lack of response cast doubts over his integrity.

The Committee was also concerned that the Applicant, when questioned, was not able to provide an adequate response as to why he had not produced a reference from Sefton Borough Council or notified Manchester City Council prior to the hearing that he was licensed with them so that adequate checks could take place.

## **Decision**

To refuse to grant the application.

### **LACHP/18/88. Application for a New Private Hire Driver Licence (KR)**

The Committee was advised that the Application had been brought before it as the Applicant had disclosed motoring convictions and health and safety at work convictions.

The motoring offences were identified as driving without insurance and without due care and attention.

The Health and Safety offences arose out of the Applicant's failure to ensure that he stored fireworks in accordance with the terms of his licence and in breach of fire safety regulations.

The Fire Service described the offences as "putting profit before safety".

Committee viewed the breach of health and safety regulations extremely seriously and felt that his lack of adherence in complying with such legislation showed a lack of consideration concerning the dangers that could arise to members of the public who were in the vicinity of his premises.

Given that a taxi driver's fundamental responsibility is the safety and protection of the public the Committee was very concerned that the Applicant would be capable of applying the appropriate level of responsibility to this very important function.

It also noted that the Applicant had recent convictions for driving without insurance and without due care and attention which gave Committee serious cause for concern.

### **Decision**

To refuse to grant the application.

### **LACHP/18/89. Application for a Review of a Private Hire Driver Licence (MAK)**

The Committee heard representations from the Licensing Officer and the driver (supported by his interpreter).

The Committee was advised that the driver had been suspended with immediate effect on the 1<sup>st</sup> August 2018 following information received from GMP that he had been bailed for threats to kill and assault on his wife. It was also stated that there was an allegation of rape being investigated. The rape and assault charges related to incidents alleged to have occurred several years ago in Pakistan with a recent allegation of assault and threats to kill.

The Committee was made aware that, following the suspension being imposed, information was received from GMP to state that the CPS had determined that they had insufficient evidence to proceed on all charges, save for Common Assault, which is to be tried on the 21<sup>st</sup> December 2018.

The driver stated that the allegations made were lies and that they had been made at a time when his wife was suffering from depression after losing her job.

The Committee recognised the serious allegations that had been made against the driver but also noted that, save for the Common Assault, no further action was to be taken against the driver by the CPS.

The Committee then considered all the options available to it to determine the matter.

After lengthy consideration it decided that it was not minded to revoke the driver's licence.

Taking into account the fact that the driver had no previous convictions the Committee opted to take no further action.

### **Decision**

To take no further action.