

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

### **Minutes of the meeting held on Tuesday, 13 November 2018**

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

**Councillors:** Paul and Stone

**Apologies:** Councillor Ludford

#### **LACHP/18/92. 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/18/93. Application for a review of a Private Hire Drivers Licence (NR)**

The Committee considered the content of the report and the representations made by the driver. The Committee considered that the assault was a serious matter which was aggravated by the fact that it was against a 12 year old child. The Committee did accept that the driver had been provoked however licensed drivers are sometimes subjected to provocation by passengers or others who may be rude or abusive to them whilst they are carrying out their duties and it is important that drivers have a temperament which allows them to react in a calm and appropriate manner. The Committee is not satisfied following this conviction that the driver has such a temperament. Additionally the Committee was concerned that he had not been honest in his dealings with the Council. He had two opportunities to declare this matter on a statutory declaration, in April 2016 as a pending matter and in 2018 as a conviction and he did not declare it. Additionally he had a duty to notify the Licensing Authority of the conviction when it occurred, he confirmed he was aware of this condition. The Committee did not accept the explanation put forward that the failure to declare this matter was a mistake and he had not intended to mislead the Council. The Committee considered that the driver had deliberately failed to disclose this matter in an effort to mislead the Council. In all the circumstances therefore the Committee is not satisfied he is a fit and proper person.

#### **Decision**

To revoke the licence.

#### **LACHP/18/94. Application for a review of a Private Hire Drivers Licence (RJ)**

The driver, via his solicitor, requested that the matter be adjourned as his legal representative was not available on this date.

### **Decision**

To adjourn the matter to 11 December 2018.

### **LACHP/18/95. Application for an exemption from assisting wheelchair passengers for (NA)**

The applicant requested that he be allowed to record the hearing. After consideration the Committee decided that this would not be appropriate as this was a Part B hearing and refused his request. The hearing then proceeded as planned.

The Committee considered the content of the Report and the representations of the applicant and the committee was satisfied he is a fit and proper person. The Committee considered the applicant to be a very rational and reasonable person who would carry out the role to his best effort providing the best customer service he could given his physical limitations. The Committee accepted he would use his best efforts to ensure that he was not working in locations where he would in a position of having to refuse to carry passengers due to his condition and in the circumstances when this occurred he would where possible assist passengers in securing an alternative vehicle. The Committee was satisfied that he would have a positive attitude towards customer service and that customers would be understanding and not be disadvantaged. The Committee considered that given the size of the Hackney Carriage fleet and the number of licensed drivers the grant of this licence would not have a detrimental effect on the travelling public particularly those with mobility issues who would require assistance from their driver. The Committee also noted that the applicant expressed an intention to drive a vehicle type which was adapted to his needs but which otherwise fulfilled the criteria of the Manchester City Council conditions of fitness for Hackney Carriage vehicles and was a therefore a vehicle type already on the fleet.

### **Decision**

To grant the application with an exemption on medical grounds under s 166 of the Equalities Act 2010.

### **LACHP/18/96. Application for a new Private Hire Drivers Licence for (MC)**

The Committee took into account the fact that this was an isolated incident and that more than 7 years had elapsed since this conviction. The Committee also took account of the fact that his former operator had attended to give him a character reference and accepted this offence had been out of character. In all the circumstances the Committee was therefore satisfied the applicant was a fit and proper person.

### **Decision**

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

**LACHP/18/97. Application for a review of a Private Hire Drivers Licence for (TA)**

The Committee considered the content of the report and the representations made by the driver and his solicitor. The Committee took account of the fact that the driver had been acquitted of the charges against him which had flowed from the complaint. The Committee was told that the complainant had not been a credible witness. The Committee accepted the driver had another booking from the hospital and this accounted for his presence in the hospital. The Committee also considered his explanation of the location of his vehicle in the car park at the hospital was consistent with his explanation of what had taken place in the vehicle and the conversation which had taken place between himself and the complainant. The driver was warned as to allowing lone females particularly vulnerable females of riding in the front seat.

**Decision**

To lift the suspension and place a warning on his licence.

**LACHP/18/98. Application for review of a Private Hire Drivers Licence for (SS)**

The Committee was not satisfied he is a fit and proper person. The applicant told the Committee that the allegations of sexual assault and rape which had been made against him in July 2011 and October 2012 had been made by two separate people and that they had been made by two ex-girlfriends who had joined together to make false allegations against him in order to destroy his life. When questioned, the applicant told the Committee the women were not friends and had not previously known each other. He told the Committee one of the women was a drug addict with mental health problems and she had made the allegations in July 2011 and the second woman who made the allegations in October 2012 was a third year law student who was angry with the applicant when he refused to marry her due to racial differences. He told the Committee that his Pakistani family would not allow him to marry a Bengali female. He told the Committee that the second girlfriend had sought out his first girlfriend and had they had conspired together to make false allegations against him.

The Committee was not satisfied by this explanation, there were inconsistencies as the first allegations had been made some time before the second allegations. The applicant also told the Committee that this conspiracy had been admitted in cross examination at his Trial but no action was taken against the females. The Committee did not accept that a conspiracy to pervert the course of justice had been admitted and no action taken by the authorities. The Committee also found it difficult to accept that two women who did not know each other would conspire together against the defendant. No explanation was also given as to how the second woman was able to locate the first woman. The Committee therefore considered that the applicant was not being honest about these allegations and in all the circumstances could not be satisfied he is a fit and proper person.

## **Decision**

To refuse to grant the application.

### **LACHP/18/99. Application for a new Private Hire Drivers Licence for (MAR)**

The Committee was not satisfied he is a fit and proper person. The applicant told the Committee that the circumstances of the offence had been that he had left his child in the care of a friend who was an illegal immigrant and that he had left the property when the police arrived to check on the welfare of the child. He told the Committee he had subsequently given police his name but they had been unable to trace him. He also told the Committee that the translator at the hospital had misunderstood the conversation and had mistakenly understood the child to be alone. The Committee did not accept this explanation, it was inconsistent that he would warn this person to leave the property as the police arrived and then give his details particularly given the reason for the attendance at the property by the police. The Committee also took into account the conviction by the Court and the sanction imposed by the Court which had considered all the evidence. The Committee therefore did not accept that anybody was looking after the child at the time in question. A licensed driver may at times have vulnerable persons in his vehicle and he is responsible for their welfare during the journey, given that the applicant had neglected that duty in respect of his own very young child the Committee had no confidence he would fulfil that duty in respect of vulnerable passengers and therefore was not satisfied he is a fit and proper person.

## **Decision**

To refuse to grant the application.

### **LACHP/18/100. Application for a new Hackney Carriage Drivers Licence for (HA)**

The Committee considered the content of the report and the representations made by both the applicant and his sister. The Committee noted that there had been no convictions since July 2009 and therefore they accepted the representations that the applicant was a changed person and had changed his life. In all the circumstances therefore the Committee was satisfied he is a fit and proper person to hold a licence.

## **Decision**

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