

Licensing and Appeals Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 15 May 2023

Present: Councillor Andrews – in the Chair

Councillors: Hilal and Hughes

LACHP/23/37. 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/23/38. Review of a Private Hire Driver Licence - MQA

The Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer and MQA who was assisted by an interpreter appointed by the council.

The Licensing Unit officer addressed the Hearing Panel, stating that MQA had notified the Licensing Unit of their totting up offence and subsequent disqualification from driving for 6 months. This consisted of separate offences of MS90 – failure to give information of the driver etc., and 2 speeding convictions. As a private hire driver must hold a qualified licence the licensing unit had suspended MQA's driver licence pending this hearing.

The Hearing Panel asked the Licensing Unit officer if this was a 6 month disqualification and asked for the disqualification date.

The Licensing Unit officer confirmed the 6 month duration and stated that they were awaiting the DBS summary with full details.

MQA addressed the Hearing Panel, stating that they need their badge as they cannot work without it, nor do any other line of work and therefore would have no income.

During questioning from both the Licensing Unit officer and the Hearing Panel, MQA confirmed the disqualification date as 14 April 2023, confirmed that they had not yet appealed the disqualification, that they were speeding in their private hire vehicle, that they were going through relationship issues which distracted MQA from providing information which led to the MS90 and confirmed that they had made a guilty plea.

In their deliberations, the Hearing Panel considered that MQA could not have their badge returned as requested as MQA did not currently hold a valid licence and continued the suspension until the end of the disqualification period, which would end on 13 October 2023.

Decision

To continue the suspension until 13 October 2023.

LACHP/23/39. Application for a New Private Hire Driver Licence - JMJ

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

The Licensing Unit officer addressed the Hearing Panel stating that there were various criminal matters detailed on JMJ's application confirmed as convictions for stalking, ABH, using violence to enter premises and breaches of non-molestation order.

JMJ addressed the Hearing Panel and confirmed that the incidents on the report were all correct and explained that they were all concerning a previous relationship which had started well but went badly over time. JMJ explained that they were the youngest in the relationship by 7 years and that the relationship commenced when JMJ was younger. JMJ listed the chronology of events starting with using violence to enter a premises, a Non-Molestation order and how they were encouraged to breach the order by the ex-partner. JMJ served time and was again encouraged by the ex-partner to spend time with them. JMJ breached the order once more after an argument by arriving at a location where it was known their ex-partner would be. JMJ confirmed that the order ends in August 2023 and that they now spend time with their child from this relationship. JMJ expressed to the Hearing Panel that they had worked on improving their character and were in full time employment. A supporting letter from JMJ's probation officer was handed to the Hearing Panel.

In responding to questions from the Licensing Unit officer, JMJ stated that the ex-partner had tried to have the order removed, that the ex-partner, their parent and neighbour had reported JMJ, that the ABH report stated JMJ had grabbed and dragged their ex-partner which JMJ did not agree with, that JMJ had made a guilty plea, that the ex-partner had sent encouraging messages over text and social media messaging and that it was naïve to have breached the order, that JMJ is good at following orders from officials and had taken note of the judge's comments regarding the order that it was JMJ's responsibility, not the ex-partners to uphold this.

In responding to further questions JMJ stated that they had undertaken lots of driving in their current job and found it to be enjoyable, one of JMJ's colleagues had recommended taxi work as a flexible way of working, that they had researched the process fully and was aware that their record would be scrutinised, that JMJ only wished to work for Manchester city council, that they would split both jobs part-time if the licence were to be granted and stated that there were still rehabilitation sessions for JMJ to attend due to a missed letter from the service. JMJ stated that they had

made arrangements for the remaining sessions to be held in the evenings so they could attend.

In their deliberations, the Hearing Panel considered JMJ's history and noted that, whilst the convictions were very concerning, all of them were regarding one individual in an emotional setting. The Hearing Panel noted that JMJ had been very open and honest, showing clear remorse for their actions and felt certain that JMJ had made great steps and showed a commitment to improving their ways. The Hearing Panel took notice of the time remaining for rehabilitation with regards to policy guideline aims but felt that JMJ was a fit and proper person to hold a licence.

Decision

To grant JMJ with a licence.

LACHP/23/40. Review of a Private Hire Driver Licence - ANS

The Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer and ANS who was assisted by an interpreter appointed by the council.

The Licensing Unit officer addressed the Hearing Panel, stating that the Licensing Unit had suspended ANS's licence with immediate effect due to information received from West Yorkshire Police regarding a very serious incident which matched to an incident being investigated by GMP. Investigations were ongoing and there was no further information at present from West Yorkshire Police or GMP.

ANS addressed the Hearing Panel, stating that they needed their badge again as they were struggling financially. ANS had been living in the UK for 16 years and working in the taxi trade for 7 of these. ANS stated that they had not committed any crime and added that the allegations against them were false.

In response to questioning by the Licensing Unit officer, ANS stated that they were 18 years old when the alleged offence was dated and added that they had not done anything wrong, that they held a licence with Wolverhampton Council, that Wolverhampton Licensing Unit had suspended the licence also and that ANS had another hearing with Wolverhampton Licensing due soon.

In summing up their case, ANS stated that the GMP incident had now closed, that they had been cleared and requested their badge back. ANS did not understand why the alleged victim had named them when it was a relative who was involved. ANS stated that they were married and wished to support their family.

In their deliberations, the Hearing Panel considered this to be a very serious allegation and were very concerned for public safety whilst investigations were ongoing.

Decision

To continue the suspension pending conclusion of any police investigations and criminal proceedings, at which time a further hearing will be booked to determine ANS's ongoing licensing arrangements.

LACHP/23/41. Application for a New Hackney Carriage Driver Licence - ADS

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

The Licensing Unit officer addressed the Hearing Panel stating that ADS had detailed one offence from 2008 on their application. On checking the DBS entry for ADS, a further 30+ historical convictions came to light concerning drug, violence and motoring offences, none of which were within the guidelines but would require consideration due to their nature and number.

ADS did not have a question but raised that they only detailed one offence on their application as this was the most recent and that they could not recall all the previous dates and offences. The Licensing Unit officer noted ADS comments but expressed that this can look like an applicant is attempting to hide information. ADS stated they thought they were all "spent convictions" and the Licensing Unit officer confirmed that they are all considered "live" when applying for a licence.

ADS addressed the Hearing Panel and stated that they were aware of the gravity of the convictions but added that they were all from a long time ago. ADS was previously an alcoholic and the convictions were all from this period. ADS now had a 12 year old son who they wished to support in their sporting endeavours and the flexible nature of taxi work would be perfect in this regard. ADS expressed their remorse and shame at their criminal history, stated that there were circumstances involved but ultimately took full responsibility. ADS knew they had to be seen as a fit and proper person and was aware that they would be working with the public. ADS had moved on to a better life but felt the past come back to haunt them with their record being considered again.

In responding to questions from the Licensing Unit officer, ADS stated that the ABH issue from 2008 was concerning an ex-partner whom they have child-sharing duties with, that the record linked to an incident in Spain did not involve any weapons, that their previous job was as a planer taking up tarmac for 20 years, that they had not touched alcohol since 2011 and that they were currently unemployed.

In summing up, ADS stated that they understood how concerning their history would appear, that they were not proud of it and thanked the Hearing Panel for giving them this opportunity at the hearing. ADS expressed that they had done well for many years now, raising two older daughters and now putting efforts into raising a son and wished to be a good example to him.

In their deliberations, the Hearing Panel considered the list of offences dating back from 1986 to 2008. Whilst these offences were very concerning, the Hearing Panel were satisfied that ADS was a reformed character with a lengthy period without any convictions. The Hearing Panel took note of ADS's clear remorse, honest and open

submission at the hearing and felt that they were a fit and proper person to hold a licence.

Decision

To grant ADS with a licence.

LACHP/23/42. Review of a Hackney Carriage Driver Licence - AQ

The Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer and AQ who was represented by 2 members of the Airport Taxi Association, Mr N Ahmed and Mr Z Amir.

The Licensing Unit officer addressed the Hearing Panel stating that AQ provided information to the Licensing Unit following a routine request in December 2022. The summary showed an undisclosed SP30 speeding conviction on 29 June 2022, with 3 penalty points. The Licensing Unit issued a warning letter AQ due to the lack of notification. AQ then provided information about a further speeding offence in January 2023 and a notice of intended prosecution in February 2023 for yet another speeding offence. As such, AQ has three speeding convictions within the last 12 months, incurring 9 penalty points, which falls within the guidelines.

The Hearing Panel sought clarity on the offences and Mr N Ahmed confirmed instances of AQ driving at 36/7 in a 30 zone and 48 in a 40 zone.

Mr N Ahmed addressed the Hearing Panel on behalf of AQ and stated that they had no objection to any of the information provided in the report. It was stated that AQ had been a taxi driver since 2001 and that AQ had a good history in the trade. Mr Ahmed drew the Panel's attention to taxi drivers shifts which can be 5/6 days per week and 10 hours in length, which is a long time to spend on the road. Mr Ahmed mentioned financial issues facing AQ in that a recent renewal had cost over £3,000, which had doubled since the previous year. Mr Ahmed then explained that AQ had previously been based at Manchester Airport since 2001. During Covid, AQ's airport permit lapsed as it had not been renewed in the allotted 3 month period due to the lack of work in this area. AQ now worked in the town centre which was much busier and more hectic than their previous airport position, plus AQ would be taking on extra work since Covid pushed many drivers out of the trade. AQ had a £850 mortgage, 4 children and needed a minimum of £2,000 per month to survive. Mr Ahmed expressed that AQ had broken the speed limits as stated in the report but added that there was an impending move to electric vehicles which would cost £40,000. Mr Ahmed requested that the Hearing Panel consider the gravity of AQ's situation if they were unable to continue in the taxi trade. AQ was extremely sorry for his convictions and was not trying to make any excuses.

AQ then addressed the Hearing Panel to express their apology for the convictions and added that this was their first appearance in front of the Hearing Panel in many years of licenced driving for the city council. AQ explained that they would do their best not to repeat the offence as 3 more points would see them lose their licence. AQ requested that the Hearing Panel kindly take no further action and made a promise not to be called in front of them again.

In responding to the Licensing Unit officer, AQ confirmed that the offences had been made in their licenced vehicle, once with a passenger on board and took note of the comment regarding public safety.

In summing up on behalf of AQ, Mr Ahmed stated that AQ was very sorry and added that 1 speed camera had been fixed and the other 2 had been police speed traps and that AQ realised that these offences were safety issues. Mr Ahmed concluded by stating that he knew AQ very well and reiterated his overall clean history in 22 years of service.

In their deliberations, the Hearing Panel noted that the offences were concerning but considered AQ's long history as a licenced driver and commitment to the service. AQ summed up by stating that they were sorry and that it would not happen again.

Decision

To take no further action with regard to AQ's licence.

LACHP/23/43. Review of a Hackney Carriage Driver Licence - KK

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

The Licensing Unit officer addressed the Hearing Panel stating that KK had informed the Licensing Unit in April 2023 of a CU80 offence (breach of requirements as to control of vehicle - mobile phones etc.) which had incurred 6 penalty points and a £200 fine. KK had been driving their Hackney Carriage at the time and this offence fell within the guidelines.

KK addressed the Hearing Panel and stated that they were in Longsight with passengers and approached a red light. Whilst stationary at the traffic lights KK received a call and briefly picked up the mobile phone from the magnetic connector on the dashboard to check the caller and replaced it quickly. An unmarked vehicle pulled KK and questioned them about having picked up their mobile phone. KK responded to say that they had briefly picked up the phone but replaced it immediately. KK stated that the call was from family and it transpired that KK's father had suffered a heart attack and the family were calling with this information. KK stated that the family know their work does not allow them to answer the phone and KK had only done so in a time of emergency.

In summing up, KK stated that they were told that they were not in control of their vehicle.

Decision

To attach a warning to KK's licence.

LACHP/23/44. Review of a Private Hire Driver Licence - MM

MM required a Bengali interpreter.

Decision

To defer the hearing to allow MM to have an interpreter present.

LACHP/23/45. Application for a New Private Hire Driver Licence - NI

The Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer and NI who was assisted by an interpreter appointed by the council.

The Licensing Unit officer addressed the Hearing Panel, noting that NI was a previous driver with the city council and had their licence revoked in October 2020 after 2 Ply for Hire incidents 3 months apart. NI had been caught twice by Operation Aztec which led to a disqualification due to totting up and receiving 12 points on their licence. The conviction remained within the policy guidelines.

NI addressed the Hearing Panel, stating that they needed their badge again to allow them the opportunity of flexible work. NI stated that they have a new line of employment and this does not afford them time to assist the family and school run for their children. NI admitted they had made a big mistake.

The Licensing Unit officer asked questions of NI and they responded to say that they would have to renew the licence if they wished to work with Wolverhampton Council, that they wished to work for Manchester only, that they had applied for a Trafford licence and Trafford Council had requested documentation on their English Level 3, that they made a big mistake, that NI was going the same way as the plain clothes officers on the second occasion and offered a ride and agreed that they must work within the law.

In summing up, NI stated that they were embarrassed, would work within the law and assured the Hearing Panel that they would not repeat this offence.

In their deliberations, the Hearing Panel took notice of the policy guidance which states that there should be a 3 year period free from conviction and also noted that there were 2 convictions. As the offence was still within the guidelines and there was such a short time between the repeated offences, the Hearing Panel referred to the guidelines in this instance and refused to grant NI a new licence.

Decision

To refuse to grant the licence.

LACHP/23/46. Review of a Private Hire Driver Licence - FTR

FTR's appointed representative was not available for the hearing.

Decision

To defer FTR's hearing until 22 May 2023.

LACHP/23/47. Review of a Private Hire Driver Licence - MS

MS's appointed representative was not available for the hearing.

Decision

To defer the hearing to 22 May 2023.