

Licensing and Appeals Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 12 June 2023

Present: Councillor Andrews – in the Chair

Councillors: Hughes and T Judge

LACHP/23/52. 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/23/53. Review of a Private Hire Driver Licence - MM

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

The Licensing Unit officer addressed the Hearing Panel, stating that MM had a conviction for ply for hire and the associated no insurance. In June 2022, during a concert held at the Etihad Stadium, two Compliance Officer witnessed MM negotiate a fare with customers for a journey not pre-booked with the operator. A witness statement from one of the Compliance Officers had been provided to the panel. MM was convicted at the Magistrates court in April 2023 but failed to attend.

MM addressed the Hearing Panel, stating they had not received a letter from the court. MM accepted being at the stadium on the date in question but stated that the customers asked for MM to open the window and then proceeded to enter their car without invitation. MM told the customers they could not take them, and the car did not move. The Compliance Officers then came to the car and took MM's details.

The Licensing Unit officer questioned if MM would challenge the court decision, and why, as a relatively experienced driver, MM's doors were not locked. MM stated they would not challenge the court decision and accepted the conviction. MM accepted making a mistake by not locking their doors at the time.

The panel sought clarity on if MM knew ply for hire was illegal and why MM was waiting on the street nearby a concert venue. MM was aware ply for hire was illegal. MM stated they had parked awaiting confirmation of their next job due to the busy roads. They noted they had never made a mistake before and would not do anything illegally.

The Licensing Unit officer had nothing to add when invited to sum up.

MM summed up by requesting that the panel consider their family as this job was their livelihood. MM reiterated this was the first time they had appeared before the panel.

In their deliberations, the Hearing Panel considered ply for hire and the associated no insurance to be a serious offence. However, the panel noted that this was an isolated incident, and that MM had no previous criminal or traffic convictions. The panel therefore considered MM to still be a fit and proper person to hold a licence.

Decision

To issue a warning as to future conduct.

LACHP/23/54. Application for a New Private Hire Driver Licence and New Private Hire Operator - AIJD

The Hearing Panel were informed by AIJD's legal representative that the conviction that saw AIJD before the panel was being worked on to be set aside. The legal representative therefore requested a deferral until that had been dealt with.

Decision

To defer the hearing.

LACHP/23/55. Review of a Private Hire Driver Licence - SBG

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

The Licensing Unit officer addressed the Hearing Panel, stating that SBG had reported a conviction of an MS90, failure to give information as to the identity of a driver, from April on 4 May 2023 to the Licensing Unit. This conviction brought 6 points and a £510 fine and was considered a major traffic offence within the guidelines. The Licensing Unit had been made aware that SBG had passed a form to a family member to complete, although the form had said only the addressee should complete it.

SBG addressed the Hearing Panel, noting they had been driving for a number of years without any previous issues. They accepted this was a big mistake but told the panel they could not afford a suspension. They felt themselves to be a trustworthy and professional driver, having received no complaints before.

The Licensing Unit officer noted that the original offence had been a speeding offence and questioned if SBG owned the vehicle and if they admit to driving the vehicle at the time. SBG stated they did not own the vehicle; it was owned by their operator. The form in question was therefore passed from the operator to SBG and then to their family member. SBG admitted to driving at the time.

Neither the Licensing Unit officer nor SBG had anything to add when invited to sum up.

In their deliberations, the Hearing Panel considered that this was an isolated incident and that SBG had no criminal convictions and only one previous traffic conviction. The panel were satisfied that SBG had admitted their regret at giving the form to a family member to complete and showed remorse for their actions.

Decision

To issue a warning as to future conduct.

LACHP/23/56. Review of a Private Hire Driver Licence - BS

The Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer and BS who was supported by a legal representative.

The Licensing Unit officer addressed the Hearing Panel, stating that following a routine DVLA Summary check, an SP30 conviction was shown that BS had not made the Licensing Unit aware of. That meant that BS had two SP30 convictions within 6 months, which falls within the guidelines. The Licensing Unit officer noted that BS had appeared before the panel twice before, the first outcome being no further action and the second a warning was issued to future conduct.

BS's legal representative addressed the Hearing Panel, noting that at a previous appearance, BS had disclosed their convictions. BS apologised for not disclosing this time. BS had intended to go through the fixed penalty notice process before communicating with the Licensing Unit. BS did not receive confirmation that the process was complete. It was also noted that BS's busy schedule contributed to the failure to disclose.

The panel sought clarity on the number of points on BS's licence. Their legal representative informed the panel that BS had 6 points.

The Licensing Unit officer had nothing to add when invited to sum up.

BS's legal representative summed up by stating that BS had responded promptly to the Licensing Unit's request for a DVLA summary.

In their deliberations, the Hearing Panel noted that BS had appeared before the panel twice before this appearance. The panel had concerns that BS had not altered their behaviour following those appearances, particularly after receiving a warning to their future conduct.

Decision

To suspend the licence for two months.

LACHP/23/57. Review of a Hackney Carriage Driver Licence - SB

The Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer and SB, and their trade representative.

The Licensing Unit officer addressed the Hearing Panel stating that SB had notified the Licensing Unit of a conviction from a different Magistrate Court outside Manchester. A Licensing Officer from that Local Authority had approached SB for a fare, which SB was not licensed for. The conviction was for ply for hire and no insurance.

SB's trade representative addressed the Hearing Panel, accepting that they could not go behind the court's decision, but that SB should not have been convicted of no insurance. However, they accepted that SB had the conviction of ply for hire.

SB noted that they were aware of the court date and attended but was not represented.

The Licensing Unit officer had nothing to add when invited to sum up.

SB's trade representative summed up by stating that SB had been open and honest that this had happened. They noted SB had been under financial and family pressures at the time. SB accepted that it was an error of judgement and understood the ramifications. Their representative noted this was an isolated incident.

In their deliberations, the Hearing Panel considered that SB's insurance would have been valid for the journey in question. However, the panel noted that ply for hire had occurred. The panel were satisfied that SB had shown remorse for their actions, noting they had informed the Licensing Unit of the conviction and had plead guilty in court. The panel accepted this was an isolated incident.

Decision

To take no further action.

LACHP/23/58. Review of a Private Hire Driver Licence - SUR

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

The Licensing Unit officer addressed the Hearing Panel stating that the Licensing Unit had been made aware, from a complaint, that SUR had refuse to take a disabled customer and their assistance dog. The Licensing Unit had spoken to the operator and the customer and felt there was sufficient evidence for a conviction under the Equality Act 2010.

SUR addressed the Hearing Panel, stating they received a job with no information. When they arrived, they asked the customer to confirm their name, at which point the customer told SUR they had a dog. SUR said they would need to speak to their

operator as they had not been given information about this. The operator then took the job off SUR and dispatched another taxi for the customer. After this, SUR drove to their next location and received a phone call from their manager who informed SUR it was an assistance dog. SUR asked for the job back but was told it had gone. SUR wanted to apologise to the customer, stating this was not intentional and was a genuine mistake. SUR noted this was their first mistake.

In questioning, both the panel and Licensing Unit officer sought clarity regarding the incident, particularly relating to how SUR was unaware that it was an assistance dog. SUR stated that their operator cancelled the job, disputing their claim that it was SUR who had cancelled it. SUR stated they did not see the dog and that was why they did not know it was an assistance dog. They accepted it was a mistake to not check with the customer if the dog was for assistance.

The Licensing Unit officer had nothing to add when invited to sum up.

SUR summed up by stating they were sorry for the situation, noting this was their first mistake.

In their deliberations, the Hearing Panel considered the incident to be very serious, that a disabled passenger was left waiting for a second driver to arrive. However, the panel accepted that SUR was remorseful, as demonstrated by his early guilty plea. The panel were satisfied that SUR would check with customers in the future to ensure that they always accepted passengers with assistance dogs.

Decision

To issue a warning as to future conduct.

LACHP/23/59. Review of a Hackney Carriage Driver Licence - MS

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

The Licensing Unit officer addressed the Hearing Panel stating that following a routine request for a DVLA summary, it was highlighted that MS had two MS90 convictions, failure to give information as to the identity of a driver. Both convictions carried 6 points, but MS had not made the Licensing Unit aware. A court decided to not disqualify MS from driving due to their hardship plea.

MS stated that both offences related to speeding, caused by rushing to jobs due to hardship. MS noted they panicked at the time, and this was the consequence. Following a question from the Licensing Unit officer, MS admitted they had considered allowing another person to take the points on their licence instead.

Neither MS nor the Licensing Unit officer had anything to add when invited to sum up.

In their deliberations, the Hearing Panel had concerns that MS had two recent MS90 convictions, which are major traffic offences. The panel had concerns that MS had admitted to considering perverting the course of justice by allowing another person to

take their points. The panel did consider the previous good record of MS and that they had no previous criminal convictions. The panel also noted that MS had been honest in admitting they considered allowing a third party to take the points.

Decision

To suspend MS's licence for 3 months.

LACHP/23/60. Review of a Private Hire Driver Licence - AA

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

The Licensing Unit officer addressed the Hearing Panel stating that, as AA approached their 50th birthday this year, they were advised of the need for a DVLA Group 2 medical certificate. All drivers are required to have this check at 50, 55, 60, 65 and then every year following 65. AA had kept the Licensing Unit informed of the progress, but their GP did not feel able to sign the Group 2 medical certificate due to an eyesight issue. AA had been referred to a specialist and thus the Licensing Unit suspended their licence with immediate effect on 23 May 2023.

AA addressed the Hearing Panel, accepting that they could not see far enough to be signed off. They felt that their overall vision was fine. They noted they had no previous issues with customers or operators. AA was still waiting for their appointment to see a specialist. AA did have glasses but did not wear them to drive.

The Licensing Unit officer summed up by stating that the Licence was suspended as it appeared AA's GP was not satisfied they were medically fit. Without the DVLA Group 2 medical certificate, AA could not drive as a matter of public safety.

AA summed up by stating that they hold a Licence for the flexibility in hours that allow them to support family members.

In their deliberations, the Hearing Panel noted that AA's GP was unwilling to sign the DVLA Group 2 medical without AA attending an appointment with a specialist. The panel were satisfied that AA had no problems with customers or operators previously. However, the panel agreed with the Licensing Unit's decision to suspend AA's Licence in the absence of a Group 2 medical. The panel could not be satisfied that public safety would be upheld.

Decision

To suspend the licence with immediate effect.