

Licensing and Appeals Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 7 August 2023

Present: Councillor Grimshaw – in the Chair

Councillors: T Judge and Andrews

LACHP/23/74. 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/23/75. Review of a Private Hire Driver Licence - CU

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

The Licensing Unit officer addressed the Hearing Panel, stating that in June 2023, a routine DVLA summary showed a previously undisclosed offence. CU had been convicted of an IN10, using a vehicle uninsured against third party risks. The conviction had been reduced from eight to six penalty points, which was a major traffic offence.

CU noted that they had not received the letter for their first hearing, which was where the eight penalty points were awarded. They requested an appeal and at that hearing, the penalty was reduced to six.

The panel asked the Licensing Unit officer if the conviction had been declared to them. The Licensing Unit officer noted that it had not, they had discovered the conviction through the DVLA summary.

CU addressed the Hearing Panel, stating a family member had passed away and they travelled to their funeral. They had been asked to drive another family member's car for them, and thought their insurance covered that. The police stopped them for a back light not working. CU provided their details, and it became apparent their insurance did not cover them to drive their family members car.

The Licensing Unit officer summed up by clarifying that CU had previously been unaware of the original proceedings. The second hearing date, whereby the penalty was reduced, was not until after the DVLA summary was submitted.

CU summed up by stating that they were unaware of the penalty received until the end of April, following the first hearing.

In their deliberations, the Hearing Panel considered the conviction handed down to CU, noting it was a major traffic offence. However, the panel were satisfied that CU had made an honest mistake in thinking that their insurance covered them to drive the vehicle, although did note that as a Private Hire Driver Licence holder, CU should know his insurance details. The panel were satisfied that, whilst CU had not informed the Licensing Unit of the conviction, this was because they had a hearing date that came after the routine DVLA summary.

Decision

To issue a warning as to future conduct.

LACHP/23/76. Review of a Hackney Carriage 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 following a conviction for ply for hire, AA had their DVLA licence disqualified. The Licensing Unit had suspended AA's Hackney Carriage Driver Licence with immediate effect in June 2021 as AA had not submitted the necessary medical information for reaching age 55. In November 2021, GMP had stopped AA for potentially hazardous driving. They noted passengers in the vehicle and informed the Licensing Unit. After checks of the information provided, it was seen that the suspension was still in place. The suspension was lifted in December 2021 when the medical information was submitted. AA was convicted for ply for hire in May 2023, which brought a 6-month disqualification which was still live.

AA was supported by their Trade Union representative and an interpreter. Their Trade Union representative provided a document to the Hearing Panel, detailing a timeline of events and the issues they wished to address. They accepted that AA did not have a DVLA licence and therefore the panel would have no option to revoke the licence. However, they informed the panel of the events that led to that, arguing that they should be mitigating circumstances to consider when AA was able to reapply for their licence. AA's representative stated that AA had not received the requests for medical information, or the suspension notice due to being out of the country.

The Licensing Unit officer noted that the suspension notice had been sent by email.

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

AA and their representative had nothing to add when invited to sum up.

In their deliberations, the panel noted the information provided written and orally by AA's representative. However, the panel were satisfied that AA was disqualified from driving and were therefore left with no option but to revoke AA's licence.

Decision

To revoke the licence with immediate effect.

LACHP/23/77. Review of a Private Hire Driver Licence - SH

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

The Licensing Unit officer addressed the Hearing Panel, stating they were notified of a CD10 conviction, driving without due care and attention, in June 2023. The conviction brought 5 penalty points for SH and was therefore a major traffic offence, requiring a decision by the Hearing Panel.

SH submitted additional documents to all parties. They then, with the assistance of an interpreter, addressed the Hearing Panel, stating that they accepted their mistake, regretted it and was sorry. The incident in question involved the police diverting traffic and SH saw this late, meaning their vehicle got too close to the police officer.

The Licensing Unit officer questioned if the incident was caused by a lack of concentration, noting a further CD10 conviction for SH from 2014. SH accepted a lack of concentration caused the incident but that this was different from their conviction in 2014. The previous conviction was caused by pressure from a passenger due to a road closure. SH confirmed they had 5 penalty points from this conviction and 3 penalty points from a speeding conviction in 2021.

The panel questioned how close SH's vehicle got to the police officer and what speed they were travelling at. SH stated that the police report had said the vehicle was 10 to 15 feet away. They stated that the road was a 30mph road and they were not speeding but did not know the exact speed.

The Licensing Unit officer summed up by stating that a CD10 can attract between 3 and 9 penalty points. The fact this CD10 attracted 5 penalty points showed some level of culpability.

SH summed up by stating that the penalty was 5 points as they had been looking for a job on their phone. The original penalty was 6 but that was reduced due to cooperation.

In their deliberations, the panel noted that this was a major traffic offence. However, the panel were satisfied that SH had shown regret and apologised for the incident. The panel were still satisfied that they were a fit and proper person to hold a licence.

Decision

To issue a warning as to future conduct.

LACHP/23/78. Review of a Hackney Carriage Driver Licence - WH

The Licensing Unit officer informed the Hearing Panel that WH had contacted the Unit stating that they were abroad and unable to attend. They had requested a deferral.

Decision

To defer the hearing to a future date.

LACHP/23/79. Review of a Private Hire and 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 who attended with their trade union representative.

The Licensing Unit officer addressed the Hearing Panel, stating that in July 2023, the unit was contacted by Tameside's Licensing Unit to confirm that MS was licensed with Manchester. Once confirmed, Tameside forwarded information from GMP relating to MS. GMP had received a report from a 15-year-old that alleged inappropriate behaviour from MS towards them. The Licensing Unit, on the basis of this information, had deemed it appropriate to suspend MS's Licence with immediate effect on public safety grounds. MS had since been arrested and released on bail.

MS addressed the Hearing Panel, stating they were working a home to school contract and was taking the customer from school to their selected destination. MS disputed that they had offered alcohol or drugs to the customer, noting they knew they were underage. MS took the customer to the shop. The customer then wanted a further journey, so MS took her number. When MS contacted the customer, they told MS it would be another half an hour so MS told the customer they could not wait.

The Licensing Unit officer questioned if GMP had taken MS's phone, if they were on bail and if MS knew they were not supposed to arrange their own fares. GMP had taken MS's phone for two to four weeks. They were on bail and MS's trade union representative provided all parties with the conditions. MS did know they were not supposed to arrange their own fares.

The panel questioned how long MS had held a Licence and if it was common practice to exchange phone numbers. MS had held a Licence since 2004 with different authorities. They had worked the home to school contract for around three to five years. MS accepted it was not common practice to exchange phone numbers.

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

MS's trade union representative summed up by noting that the GMP investigation left MS in limbo. MS denied the allegations.

In their deliberations, the Hearing Panel noted that the investigation was still ongoing. The Hearing Panel had serious concerns regarding the behaviour of MS, particularly exchanging phone numbers with a 15-year-old.

Decision

To uphold the suspension pending the outcome of GMP's investigation and any subsequent criminal proceedings.

LACHP/23/80. Application for a new Private Hire Driver Licence - DHK

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

The Licensing Unit officer addressed the Hearing Panel stating that DHK had submitted an application for a New Private Hire Driver Licence. As part of the application, DHK's DBS showed a recent conviction for false imprisonment from 2018. DHK also had convictions for blackmail and assault causing actual bodily harm, but they 'lay on file'. The Licensing Unit officer noted that it was unclear where this offence sat in Manchester's policy and asked the panel to decide if DHK was, in their opinion, a fit and proper person to hold a Licence.

DHK addressed the Hearing Panel, noting they had been 18 years old at the time of the conviction. They had drove to a location with a family member whereby the victim was asked for money that was owed. Two other co-defendants arrived and one of them hit the victim, which started the incident.

The Licensing Unit officer questioned if DHK had plead guilty, if they knew the reason for the journey and if they were paid to be there. DHK had plead guilty but did not know the true reason for the journey. DHK stated they were told that the purpose was just to collect money for an insurance policy. DHK thought that they would collect the money and then DHK and their family member would go out for food.

The panel questioned if DHK did not think the incident was wrong at the time, whether they were in contact with the other co-defendants and if they were in work. DHK stated they had not been in the room whilst the worst of the incident occurred. DHK was no longer in contact with those involved. DHK had been in full-time employment since their release from prison.

The Licensing Unit officer summed up by stating that the Hearing Panel needed to decide where the conviction sat within the policy and if DHK was a fit and proper person to hold a Licence.

DHK summed up by stating they were young and naïve at the time. They had since learnt to take responsibility for their own actions. They noted they had been in full-time employment since their release, and that part of that employment had been working with vulnerable people.

In their deliberations, the panel considered its guidelines and accepted that the offence fell within the category of "offences against other persons" in its policy on convictions. With advice from their legal representative, the panel decided that the applicable tariff free of conviction would be the range of 3 to 5 years and therefore were satisfied that the conviction was now outside the guidelines. The panel were satisfied that DHK had turned their life around and had held full-time employment

since their release. The panel also noted that DHK was no longer in contact with those involved.

Decision

To grant DHK with a Private Hire Driver Licence.

LACHP/23/81. Review of a Private Hire Driver Licence - MDW

The Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer and MDW, supported by an interpreter.

The Licensing Unit officer addressed the Hearing Panel stating that MDW's Licence had been suspended with immediate effect in October 2022 due to receiving information from GMP regarding an allegation of sexual assault against MDW. The suspension was upheld at a previous hearing. GMP had now informed the Licensing Unit that no further action was to be taken against MDW but declined to make further comment.

MDW addressed the Hearing Panel, stating they had not done what they were accused of. They were a professional driver and knew their job. MDW did not remember the journey that led to the allegations. MDW provided all parties with a character reference from their employer.

The Licensing Unit officer questioned if MDW remembered the journey that led to the allegation and if it was two months later that GMP had contacted them. MDW confirmed both points.

The panel questioned what GMP had said to MDW. They stated they were questioned on suspicion of sexual assault and asked if MDW knew the accuser. GMP took MDW's details and investigated the allegations.

The Licensing Unit officer summed up by stating that they had sought further information from GMP but that was not forthcoming.

MDW summed up by stating they had been driving for a number of years and enjoyed their job.

In their deliberations, the panel accepted that the case against MDW had been dropped and GMP were to take no further action.

Decision

To take no further action.

LACHP/23/82. Application for a new Private Hire Driver Licence - AH

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

The Licensing Unit officer addressed the Hearing Panel, noting that AH's previous Licence was revoked in 2019 and a new application had been refused in 2022. AH committed an offence in 2014, for which they were not convicted until 2018. The conviction handed AH a 35-month prison sentence, for which they served 11. The Licensing Unit officer accepted that the conviction now fell outside the guidelines due to the time elapsed.

AH addressed the Hearing Panel, noting they had previously been a Licence holder for 30 years. AH had been working full-time since they left prison. They accepted their mistake and would not do it again. They regretted their past actions and sought a second chance.

Following a question from the Licensing Unit officer, AH provided further details about the offence and why the offence had happened.

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

AH summed up by stating that they deeply regretted what had happened and that it would not happen again.

In their deliberations, the panel considered the seriousness of the offence but accepted that the conviction now fell outside the guidelines due to the time elapsed. The panel were satisfied that AH had shown remorse for their actions.

Decision

To grant AH with a Private Hire Driver Licence.

LACHP/23/83. Application for a new Private Hire Driver Licence - MGK

The Licensing Unit officer informed the Hearing Panel that MGK had contacted the unit to request a deferral due to a family problem.

Decision

To defer the hearing to a later date.