

Licensing and Appeals Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 4 September 2023

Present: Councillor Connolly – in the Chair

Councillors: Hughes and T Judge

LACHP/23/84. 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/23/85. Review of a Hackney Carriage Driver Licence - WH

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

The Licensing Unit officer addressed the Hearing Panel, stating that the review had been brought due to complaints received regarding WH's conduct, amounting to 10 over five years, with six of those in the last two years. Part of those complaints related to attempts to inflate and overcharge for fares. The Licensing Unit officer noted that they had received a routine DVLA summary from WH and that their driving licence was clean.

WH addressed the Hearing Panel, noting that they had to deal with customers face to face. At night-time, some of those customers could be intoxicated and at the airport, some could have come back off a bad flight or holiday. WH addressed each individual complaint, providing their side of the story. WH felt that they had not behaved in appropriately during any of the incidents leading to complaints.

Under questioning, the Licensing Unit officer addressed each complaint, seeking further clarity from WH. It was noted by the Licensing Unit officer that several complaints related to the attitude of WH and the way they had spoke to customers. WH felt this was untrue. WH did not accept any wrongdoing in relation to all complaints bar one.

Under questioning from the Panel, it was noted that the complaints showed a pattern of behaviour that was not expected of a licenced driver. WH stated that they try to give their best service and there would be plenty of cases to show this, but they were not reported.

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

WH had nothing to add when invited to sum up.

In their deliberations, the panel considered the number of complaints that had been received regarding WH's conduct. However, they noted that the last complaint was nearly a year ago. The panel noted that the complaints seemed to relate to the attitude of WH towards their customers, and that all customers should be treated with respect and courtesy. The panel were disappointed that this was not happening. The panel also considered that there was some suggestions of overcharging in the complaints and noted that any agreement for fares should be clear at the outset of a journey.

Decision

To issue a warning as to future conduct.

LACHP/23/86. Application for a New Private Hire Driver Licence - MGK

The Hearing Panel were informed that MGK had requested an interpreter for their hearing and that one was not available. The Licensing Unit officer stated that they were willing for the application to be deferred.

Decision

To defer the hearing to a future date.

LACHP/23/87. Application for a New Private Hire Driver Licence - HJ

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

The Licensing Unit officer addressed the Hearing Panel, noting that HJ had previously held a Licence in Manchester before it was revoked in 2018 due to a ply for hire conviction in July 2018. The conviction now fell outside the guidelines. However, the application had been brought to a hearing due to HJ pleading not guilty in the court proceedings, providing a witness that they claimed to be taking the journey that led to the ply for hire charge. The Licensing Unit felt there was a question of integrity and honesty.

HJ addressed the Hearing Panel, stating that they had learnt from their mistake, and it had been over five years since their conviction. HJ held a licence for 12 years prior to revocation and stated they would not make the same mistake again.

The Licensing Unit officer sought clarity on the events during the court proceedings. HJ stated they had plead not guilty and brought their friend as a witness. HJ stated that friend was part of the journey that led to the conviction. HJ admitted that they were charging their friend for that journey. HJ noted they had applied for a Licence with a different authority in 2018 following their revocation but that application was refused.

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

HJ summed up by stating that they were sorry for their actions and requested that the panel give them another chance.

In their deliberations, the panel noted that the conviction was now well outside the guidelines. The panel were satisfied that HJ had shown remorse for their actions.

Decision

To grant the Private Hire Driver Licence.

LACHP/23/88. Review of a Hackney Carriage Driver Licence - AS

The Licensing Unit officer informed the Hearing Panel that AS had not contacted them to confirm their attendance and had not arrived on the day. As this was their first hearing, the panel were requested to defer the hearing.

Decision

To defer the hearing to a future date.

LACHP/23/89. 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, noting this was a further review following MS's suspension that was upheld by a previous Hearing Panel. Allegations had been made regarding MS when completing a Home to School contract journey. GMP had since concluded their investigation, with the outcome no further action due to insufficient evidence.

MS's trade union representative addressed the panel noting that MS has cooperated with GMP and the Licensing Unit. They noted that MS had given their phone to GMP for forensic analysis and accepted that no further action was taken due to insufficient evidence.

Under questioning from the Licensing Unit officer, MS stated they did not agree with the allegations and that they had not asked for the customer phone number, but they had asked for theirs. MS noted the original journey was booked so they thought they were allowed to take them on the extended journey request later. MS stated that they had stopped at the shop as the passenger requested to. The Licensing Unit officer stated that MS was contracted to take the passenger from school to home and not make stops, but MS reiterated that they would always stop at the shop at the request of a customer. MS stated they did not offer the customer drugs or cigarettes as suggested. The Licensing Unit officer noted that the additional journey requested would have been ply for hire which was illegal. MS accepted that but did not think it

was at the time. The Licensing Unit officer questioned if MS contacted the customer after exchanging phone numbers, to which MS answered they had not. The Licensing Unit officer noted additional information they had provided from GMP that showed there was contact. MS stated that GMP had not found anything on their phone, but that messages had been exchanged then the customer rang MS. The Licensing Unit officer noted that MS made the first contact, which MS then accepted and stated they were contacting the customer to complete the additional journey. The Licensing Unit officer questioned if MS often exchanged phone numbers with 15-year-old customers. MS stated it was a mistake.

The panel questioned why MS had contacted the customer the next day, as per the information provided by GMP. MS did not know. MS did not wait at the customer's home for the additional journey but waited in a nearby car park.

The Licensing Unit officer summed up by noting the information from GMP which stated that MS had denied any contact with the customer, yet messages showed contact had been made and MS had admitted to a phone call.

MS summed up by stating that GMP had stated there would be no further action and they accepted their mistake.

In their deliberations, the panel accepted that the behaviour displayed by MS was unacceptable towards a vulnerable child. The panel noted the information supplied by GMP that showed messages being exchanged between the customer and MS. The panel noted that MS initiated that contact. By their reporting of the incident, it was clear the passenger was concerned regarding the behaviour of MS. The panel accepted that MS was not a fit and proper person to hold a licence.

Decision

To revoke the Private Hire and Hackney Carriage Driver Licences.

LACHP/23/90. Review of a Private Hire Driver Licence - AAC

The Hearing Panel were informed by the Licensing Unit officer that AAC had, on the day, requested an interpreter. At such short notice, one was not available, and the panel considered deferral to a later date.

Decision

To defer the hearing to a future date.

LACHP/23/91. Review of a Private Hire Driver Licence - IA

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

The Licensing Unit officer addressed the Hearing Panel, stating that this was a review due to a routine DVLA summary highlighting a conviction for an IN10, using a vehicle uninsured against third party risks, which attracted 6 points. This was

considered a major traffic offence. IA had not disclosed the conviction to the Licensing Unit. There were no other convictions recorded.

IA addressed the Hearing Panel, noting that they were unaware of the need to report this to the Licensing Unit until a colleague had informed them. IA had insurance for their personal car but had not activated it with their insurance company as they were unaware of the need to.

Under questioning by the Licensing Unit officer, IA noted that they had to phone their insurance company to validate the insurance. They had not received the documents via letter or email. IA received a fixed penalty notice, which they paid the fine for on 22 March 2023.

The Licensing Unit officer summed up by stating that IA had known about the conviction in March 2023 but was unaware of the need to report that to the Licensing Unit.

IA summed up by stating that the insurance was for a private vehicle and not their Licensed vehicle.

In their deliberations, the panel noted that this was a major traffic offence. The panel accepted IA's explanation of the events that led to this. The panel noted that IA had no other convictions recorded.

Decision

To issue a warning.

LACHP/23/92. Review of a Hackney Carriage Driver Licence - MAT

The Hearing Panel were informed that MAT had requested an interpreter, but one was not available.

Decision

To defer the hearing to a future date.

LACHP/23/93. Application for a New Private Hire Driver Licence - AJB

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

The Licensing Unit officer addressed the Hearing Panel, noting this was a new application that had shown previous convictions. A search of the NR35 database also showed that an application to a different Local Authority had been refused due to AJB not providing a drugs test. The Licensing Unit officer accepted that the conviction that led to a discretionary qualification had been reduced from 18 months to 12 months.

AJB's legal representative informed the panel that the drugs tests performed as part of AJB's conviction had been found to be erroneous. They noted this often quashes any sentence handed down but, in this case, it had only reduced it. AJB had been out of the country at the time and their previous solicitor could not contact them to take instruction. This meant that AJB and their previous solicitor could not challenge the decision made. AJB's representative noted that the conviction now fell outside of the guidelines and that, excluding this incident, AJB was a person of good character. AJB no longer uses recreational drugs and their representative felt they were a fit and proper person to hold a Licence.

Under questioning from the Licensing Unit officer, AJB's representative stated that a drugs test was not completed for their application to a different Local Authority due to financial difficulties in paying for those tests. AJB had admitted to using recreational drugs in the past but that they do not any longer, and had not since leaving the country for a period around 2017/18.

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

AJB's representative summed up by stating that AJB was looking for a new career and that they assured the panel they would not take recreational drugs again.

In their deliberations, the panel noted that the conviction fell outside the guidelines. They accepted that AJB had previously taken recreational drugs but also accepted AJB stating they no longer did. The panel accepted AJB's reason for not completing the drugs test required by a different Local Authority.

Decision

To grant the Private Hire Driver Licence.

LACHP/23/94. Review of a Private Hire Driver Licence - UUS

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

The Licensing Unit officer addressed the Hearing Panel, noting that following a routine DVLA summary, a conviction for an MS90, failure to give information as to the identity of a driver, was found. The conviction had not been disclosed to the Licensing Unit and the date of conviction was unknown.

UUS addressed the Hearing Panel, accepting their mistake. They stated that they had lent their car to a friend, who then allowed another person to drive the car and they were caught speeding. UUS had their court hearing on 10 May 2023 and was given 6 penalty points and a fine. UUS did not know who was driving the car at the time and that is why they could not provide information regarding their identity. UUS did not know they were required to inform the Licensing Unit and was not trying to hide anything.

Under questioning, UUS noted that the car had been given to their friend's friend without their knowledge. The vehicle was lent to their friend to drive home to collect

something that had been forgotten. It was only lent for 40/45 minutes. UUS was given the information regarding the identity of the driver, but it came too late.

The Licensing Unit officer summed up by stating that this was now a renewal application and UUS's license had expired.

UUS had nothing to add when invited to sum up.

In their deliberations, the panel accepted UUS's version of events. The panel did note that it was necessary for UUS to disclose any conviction to the Licensing Unit but accepted that they were unaware of this.

Decision

To grant the Private Hire Driver Licence with a warning.