

Licensing and Appeals Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 30 October 2023

Present: Councillor Connolly – in the Chair

Councillors: Hilal and Judge

LACHP/23/106 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/23/107 Review of a Hackney Carriage Driver Licence - MAT

The Hearing Panel noted that review of the Hackney Carriage Driver Licence had been deferred from the previous meeting at the request of the licence holder.

The Hearing Panel was advised that the driver had failed to attend, and the panel was advised that this was the third listing of the hearing. The first hearing had been scheduled for the 4 September 2023, when a Translator was requested on the day to assist the driver. Given that no Translator was available, the hearing was deferred to 2 October 2023 and a warning was given that the matter could proceed in absence if the driver failed to attend. The driver did not attend stating that he had an hospital appointment, and the matter was again deferred to the 30 October 2023.

The driver failed to attend the hearing on the 30 October 2023 advising that he was unwell, no details were provided as to the illness. The Hearing Panel decided to proceed with the hearing in the absence of the driver.

The Committee heard representations from the Licensing Officer that six complaints had been brought against the driver between June 2017 and July 2023, predominantly for overcharging customers. The Committee heard that on some occasions the driver had failed to turn on the taxi fare meter and the reported amounts charged by the driver were excessive.

The Committee heard that a complaint had been brought by a lone female passenger who had complained that the driver's conduct was unacceptable, and made the passenger feel uncomfortable whilst in the vehicle.

The Committee was advised that the driver had been warned about his future conduct in September 2022, but this had not prevented further complaints being made to the Licensing Authority.

Decision

The Hearing Panel determined that the driver has demonstrated a worrying pattern of behaviour that had been ongoing for a number of years and felt it was appropriate to suspend the driver's licence for a period of 28 days.

LACHP/23/108 Review of a Hackney Carriage Driver Licence - AHS

The Committee heard representations from the Licensing Officer that fifteen complaints had been brought against the driver between March 2017 and July 2023, predominantly for overcharging customers but also for unbecoming conduct against passengers. AHS also attended the hearing and was supported by a translator, provided by the Council.

The Committee heard that a further complaint had been received on the 16 October 2023, in addition to those identified in the report, when a wheelchair user complained that the driver had refused to take him as a passenger when requested to do so.

When questioned the driver indicated that the vehicle ramp was not working properly and was unsafe and as a result, he had suggested that the next driver in the queue should accept the booking, given his concerns over his own vehicle.

There were several complaints that referred to the driver's rude behaviour and general inappropriate conduct towards passengers.

In addition to complaints from members of the public there were concerns expressed by fellow taxi drivers who complained about the driver "cherry picking jobs" and overcharging customers.

The Committee was advised that the driver had been warned about their future conduct in October 2022, but this had not prevented further complaints being made to the Licensing Authority.

The Committee heard representations from the driver, assisted by a translator.

The driver was extremely apologetic about their behaviour and sought to assure the Panel that they had learned their lesson and would correct their ways. The driver indicated that they would be mindful of the need to apply the correct fares for journeys assigned to them and not be as intolerant to his passengers in the future.

When asked about the overcharging of passengers the driver stated that, at times this had occurred because of the constant roadworks within the city that had prevented him from carrying out a journey by the shortest route.

The driver apologised for the most recent complaint, when they had failed to accept a job from a wheelchair user but reiterated that this had been down to the ramp being unsafe and that they had not meant to cause any distress to the customer.

The Hearing Panel determined that the driver had failed to correct their behaviour, despite warnings being issued and the complaints received demonstrated a worrying pattern of behaviour that had persisted over several years.

The Committee felt it appropriate to impose a period of suspension considering the

complaints made with the intention of focusing the driver's mind to the standards expected of a taxi driver licensed by the City Council.

Decision

To suspend the Hackney Carriage drivers' licence for 28 days.

LACHP/23/109 Application for New private hire driver - MGK

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

The application was received in June 2023 and that it had been brought to its attention because the Applicant had failed to notify the Licensing Authority that they had been convicted of driving without insurance.

Committee was advised that the Applicant had been given a Fixed Penalty Notice and fined £300 on the 17 February 2023 by Greater Manchester Police after being stopped at Manchester Airport whilst collecting persons a friend's vehicle.

The Applicant accepted that they had been using a friend's car but did not realise that he had not been insured.

The offence fell within the Council's guidelines, however the Committee decided to depart from them and give the Applicant the benefit of the doubt to demonstrate that he was a fit and proper person to hold a licence.

Decision

To issue the Private Hire Driver Licence with a warning attached as to future conduct.

LACHP/23/110 Review of Hackney Carriage Driver's Licence - SMHR

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

The Hearing Panel was advised by the Licensing Officer that the driver's Hackney Carriage licence had been suspended with immediate effect after totting up of penalty points resulted in the driver being disqualified from driving for a period of 6 months by the court on the 21 April 2023.

The Committee was advised that the driver had now completed his period of disqualification and that his DVLA licence had been restored to him.

The Hearing Panel heard submissions by the driver, through their representative, that the Council had a choice to either suspend or revoke under S61 of the Local Government (Miscellaneous Provisions) Act 1976 and therefore, once the decision to suspend has been made then that had to be considered a substantive / final decision as S61 could not be used as an interim suspension with a final decision made by the Licensing and Appeals Sub-Committee .It was argued that the ruling in R (on the application of Singh) v Cardiff City Council (2012) supported this argument

The Hearing panel did not accept this interpretation of the case law and agreed with the Licensing Officer that the driver did have the discretion to make the decision that he did, given that the driver had been disqualified from driving and it was for the Panel to decide what action was appropriate given the circumstances of the case.

The Hearing Panel considered the past behaviour of the driver and noted that there had been no convictions recorded against the driver from 1994 other than the speeding convictions.

The Panel determined that the driver had learned a lesson following disqualification, one that the Panel believed will concentrate the drivers' mind to ensure that they will pay particular attention to the speed limit on the city's roads in the future.

The Panel noted that the disqualification fell within the taxi licensing guidelines, the Panel believed that on balance, that the driver should be allowed to carry on with his livelihood, working as a taxi driver without further sanctions being imposed by the Committee. The Panel believed that the driver was a fit and proper person to hold a taxi licence.

Decision

To take no further action.

LACHP/23/111 Review of Private Hire Driver Licence - MA

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

The Hearing Panel was advised that the driver had been convicted of plying for hire / no insurance on the 7 September 2023, after entering guilty pleas at Manchester Magistrates Court.

It was also advised that the driver had been disqualified from driving in 2017 and that they had been given a warning about their driving when an application was made for a licence with the Council in 2019.

The Hearing Panel took the disqualification into account when deciding whether the driver was still a fit and proper person to hold a licence.

It noted that the most recent conviction was within the Council's guidelines, but the Panel was not minded to revoke the drivers' licence. The Hearing Panel decided to suspend the licence.

The Hearing Panel noted that the driver had admitted plying for hire when interviewed at the scene and when they had entered pleas at court.

Decision

To suspend the Private Hire licence for 42 days.

LACHP/23/112 Review of Private Hire Driver Licence - MN

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

The Hearing Panel was informed that the driver's licence had been suspended with immediate effect on the 3 October 2023 after the Licensing Authority had been notified that an allegation had been made against the driver by a passenger to Greater Manchester Police.

The allegation was reported to have taken place after the complainant was picked up by the driver. The Panel noted that CCTV had confirmed that the complainant was a passenger and had been picked up by the driver.

The Committee was advised that the driver had been arrested on the 30 August 2023 for an offence which had allegedly taken place on the 20 August 2023.

The Committee was provided with written submissions provided by the Applicant's solicitor in support of the driver's request to be allowed to continue driving as a taxi driver. The Panel considered the representations submitted. The Panel was advised that a criminal investigation is currently ongoing and until the outcome was determined the Panel did not have confidence that the driver was a fit and proper person to hold a driver's licence.

In protecting the public, the Panel determined that it was appropriate to maintain the suspension of the driver's licence with immediate effect to safeguard the public.

Decision

To maintain the suspension of the Private Hire Vehicle drivers' licence with immediate effect, in the interests of public safety until the outcome of the pending criminal investigation and any proceedings.

LACHP/23/113 Review of a Private Hire 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. The licence holder did not attend the hearing.

The Hearing Panel was informed that on the 26 September 2023 the Principal Licensing Officer received information from the manager of a taxi company that a complaint had been received against the driver from a female customer. As a result of the complaint the driver's employment with the taxi company was terminated.

Due to the nature of the complaint, a decision was taken to suspend the driver's private hire drivers' licence with immediate effect.

The Panel was informed of the circumstances of the complaint. The complainant had raised concerns about the driver's behaviour, following a conversation held, that had also been recorded.

The recording was forwarded to the Licensing department and submitted to the Panel

members. The Panel, after listening to the recording, determined that the conversation was unacceptable for somebody who held a position working closely with members of the public on a daily basis.

In addition, the Panel was referred to another incident involving the same driver where they had been arrested in relation to a serious sexual offence in 2022.

The Committee considered the representations made by the Licensing Officer and agreed to revoke the licence with immediate effect.

Decision

To revoke the Private Hire Driver licence with immediate effect.

LACHP/23/114 New application for Private Hire Driver's 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 Panel was informed that the Applicant had completed a declaration of convictions form inaccurately when applying for the licence.

When asked about any convictions or cautions the applicant answered that they had not received any. A DBS search revealed that their driving licence had been endorsed with 3 penalty points for driving without an appropriate licence (LC20).

The Applicant explained that the offence was for driving a vehicle when only holding a provisional licence.

The driver when questioned said that it was a mistake and that they had not deliberately intended to mislead the Licensing Authority about any previous convictions.

The Panel decided to depart from the Policy guidelines and grant the Applicant a licence with a warning about their future conduct.

Decision

To issue the Private Hire Driver Licence with a warning attached as to future conduct.

LACHP/23/115 Review of a Hackney Carriage Driver Licence – MR

The Hearing Panel considered the content of the report and the written and oral representations made by the Licensing Unit officer and AQ. The licence holder did not attend the hearing.

The Committee heard from the Licensing Officer that, following a routine request for an annual DVLA summary, a previously undiscovered conviction for having no insurance (IN10) was observed. The offence date shown was the 22 March 2022.

The driver submitted his Hackney Carriage renewal application on the 10 August 2022

and no convictions or pending matters were disclosed.

The driver was asked why they had not disclosed the conviction at the time of the licence renewal, and the driver stated that they were not aware that they had any convictions at that time.

The driver explained that they had been stopped on the motorway and he stated that they had been driving a car under a third-party policy and claimed to be insured.

This position was not accepted by Greater Manchester Police and the driver was summonsed to court for driving without insurance.

The driver produced documentation at the hearing that appeared to suggest that they had been insured at the appropriate time.

The driver was asked why they had not attended court to defend the proceedings brought against them and the driver explained that they had tried to contact the court to adjourn matters whilst they had been out of the country. No adjournment was granted, and the driver was convicted in their absence on the 4 November 2022, of driving without insurance with 6 penalty points endorsed on their licence.

The Committee noted the comments of the driver but felt that they were unable to go behind the conviction of the court and the fact that the driver had failed to notify the Licensing Authority of the conviction after they had returned to the UK.

The Committee recognised that the driver had indicated that they would look to apply to set aside the conviction.

The Panel noted that the conviction fell within its own policy guidelines and made the decision to suspend the drivers hackney carriage licence for 14 days.

Decision

To suspend the Hackney Carriage drivers' licence for a period of 14 days.