

## **Licensing and Appeals Sub Committee Hearing Panel**

### **Minutes of the meeting held on Monday, 19 June 2023**

**Present:** Councillor Andrews – in the Chair

**Councillors:** Evans and Hewitson

#### **LACHP/23/61. 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/23/62. Review of a Private Hire Driver Licence - MS**

The Hearing Panel considered a report from the Director of Planning, Building Control and Licensing. The Hearing Panel also considered the written papers of the parties and the oral representations of the parties who attended as well as the relevant legislation.

MS attended with his Representative (a solicitor), and an interpreter was also in attendance. MS's Representative acknowledged that MS spoke and understood English, however there may be certain words that MS may not understand in which case the advice of the interpreter would be sought.

The Panel heard that MS had a recent conviction for illegally Plying for Hire and the accompanying offence of 'No Insurance', details of which were in the accompanying report. The incident had occurred in 2020 whereby another taxi driver had notified the Local Authority that MS was working illegally at a hospital, (Manchester Royal Infirmary) hence the Local Authority's involvement. Officers had investigated and witnessed a lady getting into the rear of MS's vehicle, (marked as a Private Hire vehicle) and when approached and spoken to by the officers, he had apologised and asked them not to proceed any further.

The delay in bringing the review was due to the delay in the court proceedings due to the court administration.

Initially MS had entered a 'Not Guilty' plea relying on a defence that his son had a medical appointment at the hospital; however checks were made, and this was found to be untrue. MS then stated his son had not had an appointment but had attended Accident & Emergency; checks were again made and there was no record of him ever having been booked in or seen.

The case against MS was subsequently proved in his absence and sentenced. MS had exercised his right and appealed the matter. However this appeal related to the sentence only and not the conviction itself.

MS had a prior speeding conviction with 6 effective points on his licence and that with the penalty points imposed for the 'No insurance' offence had caused him to be disqualified from driving by way of 'totting up'. He had subsequently and successfully applied for the court not to disqualify him on the grounds that it would cause 'Exceptional Hardship' in respect of his disabled son who had kidney and trachea issues.

MS's Representative explained to the Panel that this was the first time MS had ever been involved in Illegally Plying for Hire. At the court hearing great weight had been given to the fact that in the event of disqualification he would lose his job and his child would be impacted as he would need to pick his child up from school to take him to hospital. MS's Representative highlighted that driving is what MS did for a living and invited the Panel to consider his history as a driver and the versatility this offered him in caring for his disabled son. MS had also given his assurance to the Panel that he would never ever do this again.

MS's representative outlined that MS was convicted in his absence and although he may have pleaded Not Guilty initially, he had, had little time to absorb details. He did however dispute any apology at the scene by MS and stated that he had brought his son to the hospital, explaining his son suffered some sudden severe pain and he had taken his wife and child to hospital at 10am. The child's mother had gone into reception to give details and was asked to take a seat. They had waited until 3-4pm but the hospital staff were so busy they were not able to see him. As time went on, the child felt better and was able to go home without being seen and when officers approached Mr Siraj, he pointed to his son.

The incident was described as MS having been seen pulling up in a loading bay at which point a female had got into the back of his private hire vehicle. When MS was asked as to where his wife and son were when the lady entered the rear of his vehicle MS's Representative advised that he had dropped off a patient or passengers at A&E and gone to the pickup point outside the Eye Hospital. MS had returned on at least 2-3 occasions throughout the day, had tried to contact wife, but the phone reception was not the best. He had therefore gone to the exit section (Eye Hospital) to see if he could see his wife or put his head in the door; when he got to that section – because he was driving his taxi - a female got in and he told her it was not her taxi.

MS's representative also confirmed that there were 6 points for speeding on MS's licence, 3 of which were due to come off later this year and he asked the Committee to bear in mind the date of the offence i.e., October 2020. It was confirmed that MS also had a licence with Wolverhampton Council also and had notified them after the Court hearing on the 21 April and of the Committee hearing. They have confirmed they will contact him to arrange a hearing.

MS's Representative urged the Panel to find that MS was a person of good character with no complaints against him. The Magistrates' Court took on board it was

impossible for him to earn a living and serve his disabled son and that his wife was also unwell with medical issues.

The Panel took Illegally Plying For Hire very seriously especially the issue of driving without any insurance. The Panel could not go behind the conviction and noted that MS had not appealed the conviction but only the sentence. Notwithstanding this, having listened to the explanation on behalf of MS and considered the evidence provided within the documentation, the Panel did not find MS's account at all credible. In applying their guidelines in respect of the Statement of Policy and Guidelines, they noted the conviction fell within the prescribed period and that they could find no exceptional circumstances to depart from the policy finding MS not to be a 'Fit and proper' person to hold a licence.

### **Decision**

To revoke the Private Hire Drivers' Licence.