

Licensing and Appeals Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 15 January 2024

Present: Councillor Andrew – in the Chair

Councillors: Hughes and T Judge

LACHP/24/4. 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/24/5. Review of a Private Hire Driver Licence and Review of a Hackney Carriage Driver Licence - BJ

The Hearing Panel were informed by BJ's legal agent that there was a second offence missing from the report that BJ had plead guilty to. The panel felt it necessary to defer the case until the full details of both offences and disposal by the Court could be provided in the report.

Decision

To defer to a later date.

LACHP/24/6. Application for a New Hackney Carriage Driver Licence - MR

The Hearing Panel considered the report from the Head of Planning, Building Control and Licensing regarding the above application. The written papers and oral representations of the parties who attended were also considered, as well as the relevant guidance. The matter was considered in line with the established procedure for such hearings.

The Licensing Unit officer addressed the Hearing Panel, noting that MR had previously held a Hackney Carriage Driver Licence. This had been revoked by a previous Sub-Committee due to a conviction for dangerous driving that led to MR being disqualified from driving for 15 months. MR's DVLA Licence was reissued on 3 October 2023.

MR attended the hearing, supported by their legal agent, an interpreter provided by Manchester City Council and their local ward councillor. MR's agent addressed the panel, noting that MR had a conviction for dangerous driving and that MR had plead

guilty to the offence. They noted that this was a one-off isolated incident and that MR's medical tests had all come back clear. The agent felt this was a simply a mistake and that MR enjoyed holding a Hackney Carriage Driver Licence.

The Licensing Unit officer noted that MR's disqualification ended in November 2022 and queried why their DVLA Licence was not reissued until 3 October 2023. MR's legal agent stated this was due to taking an extended retest before having the Licence reissued.

The Licensing Unit officer noted that this was not an isolated incident, as the report stated there was two other similar offences. MR's legal agent noted that those were historic offences and suggested they were not relevant to this case.

In summing up, the Licensing Unit officer stated that the evidence had been considered by the Court who then imposed the sentence. They noted that the panel could not go behind the conviction. As MR's DVLA Licence was not reissued until 2023, the offence still fell within the guidelines which require the Licence to be held for at least 3 years before being considered outside of the guidelines.

The applicant's agent summed up by stating that this was not an intentional offence and was a mistake. They felt MR had been punished enough and felt MR was safe to hold a Licence again. The applicant's agent stated to the panel that they felt MR was a fit and proper person.

In their deliberations, the Hearing Panel took into consideration the Statement of Policy and Guidelines as well as the relevant statutory guidance. The panel accepted that the offence fell within the guidelines but accepted that the two previous convictions were too long ago to have any weight in this case. The panel felt that MR's record had been good enough to allow for them to consider this an isolated incident and therefore depart from the guidelines.

Decision

To grant the Hackney Carriage Driver Licence.

LACHP/24/7. Application for a New Private Hire Driver Licence - MT

The Hearing Panel considered the report from the Head of Planning, Building Control and Licensing regarding the above application. The written papers and oral representations of the parties who attended were also considered, as well as the relevant guidance. The matter was considered in line with the established procedure for such hearings.

The Licensing Unit officer addressed the Hearing Panel, noting that this was a new application that had been submitted in October 2023. MT's DBS detailed a conviction that had not been declared on their application form, raising questions regarding dishonesty. The failure to disclose the conviction was the reason for MT's attendance.

MT, supported by an interpreter, addressed the Hearing Panel, noting that at the time of conviction they were new to the country and did not speak English. They had not realised that after paying the fixed penalty notice received, the offence would remain on record. That was why they had not declared the conviction on their application form.

Following questions from the Licensing Unit officer, MT noted that their brother's friend helped them to complete the application form. MT did currently work as a delivery driver. They had not applied for a Licence with any other authority.

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

MT had nothing to add when invited to sum up.

In their deliberations, the Hearing Panel took into consideration the Statement of Policy and Guidelines as well as the relevant statutory guidance. The panel accepted MT's explanation for not declaring the conviction on their application form. The panel therefore accepted that MT was a fit and proper person.

Decision

To grant the Private Hire Driver Licence, subject to the successful completion of the outstanding checks.

LACHP/24/8. Application for a New Private Hire Driver Licence - AH

The Hearing Panel considered the report from the Head of Planning, Building Control and Licensing regarding the above application. The written papers and oral representations of the parties who attended were also considered, as well as the relevant guidance. The matter was considered in line with the established procedure for such hearings.

The Licensing Unit officer addressed the Hearing Panel, noting that AH had previously held a Licence that was revoked due to a TT99 'totting up' conviction that had led to their disqualification from driving. The Licensing Unit officer noted that the conviction still fell within the guidelines.

AH addressed the Hearing Panel, noting the offence had occurred in 2019 when their vehicle had been stolen. They could not name the driver of the vehicle at the time of the offence due to it having been stolen. AH had their DVLA Licence reissued in early 2022. AH noted that they had not had any convictions since their disqualification finished in 2021.

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

AH, in summing up, noting that they had been honest from the start, informing the Licensing Unit of the conviction as soon as it happened.

In their deliberations, the Hearing Panel took into consideration the Statement of Policy and Guidelines as well as the relevant statutory guidance. The panel

considered that the conviction was still within the guidelines but noted there had been no other offences or pending matters since their DVLA Licence was reissued. The panel accepted AH's explanation of the events that led to their disqualification. The panel did, however, note the previous driving convictions listed in the report. For those reasons, the panel felt that they could depart from the guidelines, whilst issuing AH with a warning.

Decision

To grant the Private Hire Driver Licence with a warning as to future behaviour whilst driving.

LACHP/24/9. Review of a Private Hire Driver Licence - KA

The Hearing Panel considered the report from the Head of Planning, Building Control and Licensing regarding the above application. The written papers and oral representations of the parties who attended were also considered, as well as the relevant guidance. The matter was considered in line with the established procedure for such hearings.

The Licensing Unit officer addressed the Hearing Panel, noting this was a review of a Private Hire Driver Licence following a routine DVLA summary that showed an MS90 conviction from May 2023 that had not been declared to the unit. KA had since provided further information regarding the incident that led to the conviction. This was considered a major traffic offence.

KA informed the Hearing Panel that their brother-in-law had taken their car without KA's permission. KA had attended Court, plead guilty and paid the penalty notice issued. Their brother-in-law had left the country and therefore KA accepted responsibility as it was their car. The car was KA's private hire vehicle.

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

KA had nothing to add when invited to sum up.

In their deliberations, the Hearing Panel took into consideration the Statement of Policy and Guidelines as well as the relevant statutory guidance. The panel accepted KA's explanation of the events that led to the conviction. The panel accepted that this was an isolated incident, with KA remaining a fit and proper person. The panel did warn KA to take more care that persons without a private hire drivers licence do not have access to driving their private hire vehicle.

Decision

To take no further action.

LACHP/24/10. Review of a Hackney Carriage Driver Licence - ASK

The Hearing Panel considered the report from the Head of Planning, Building Control and Licensing regarding the above application. The written papers and oral

representations of the parties who attended were also considered, as well as the relevant guidance. The matter was considered in line with the established procedure for such hearings.

Councillor Hughes declared a personal interest in this case and therefore withdrew from the hearing and was replaced by Councillor Ludford.

ASK had indicated their intention to attend the hearing but did not arrive on the day, making no communication to explain their absence. The panel were satisfied that they could continue in ASK's absence.

The Licensing Unit officer addressed the Hearing Panel, stating that this was a review brought on by a recent complaint relating to ASK's refusal to take a disabled passenger. The complainant had provided a written statement that had been contained in the report for the panel's consideration. The Licensing Unit officer noted that this could have been suitable for prosecution under the Equality Act 2010, but the complainant did not want to take the matter further.

In their deliberations, the Hearing Panel took into consideration the Statement of Policy and Guidelines as well as the relevant statutory guidance. The panel accepted the version of events as put forward by the complainant. The panel felt that ASK's behaviour fell well short of what they expect of a Hackney Carriage driver. The panel felt that this was not the behaviour of a fit and proper person. The panel also noted that there were previous complaints on ASK's record relating to their conduct.

Decision

To suspend the Hackney Carriage Driver Licence for 28 days.

LACHP/24/11. Review of a Private Hire Driver Licence - AAA

The Hearing Panel were informed that AAA had been unaware of the previous criminal proceedings that had led to this review. AAA provided correspondence that showed the panel they had a date in Court to make a Statutory Declaration. Given this, the panel felt it appropriate to defer the case until the outcome of those proceedings.

Decision

To defer until the conclusion of the criminal proceedings.