

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

### **Minutes of the meeting held on Monday, 12 February 2024**

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

**Councillors:** Andrews, T Judge and Reid

#### **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 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 taxi licensing hearings.

The licence holder attended the hearing and was supported by a legal representative.

The Hearing Panel heard that the driver was convicted of an offence of common assault.

The Solicitor representing the driver outlined the circumstances of the offence.

The Hearing Panel was informed of the licence holder's current living arrangements.

The licence holder's legal representative advised the hearing panel on the circumstances of the offences and the court's consideration and outcome.

The Hearing Panel was advised that the licence holder has been a taxi driver for 34 years with an unblemished record.

The Hearing Panel noted that the offences stated were within the Council's Policy Guidelines on convictions.

The Hearing Panel noted that the offences stated are serious and discussed at length whether to revoke the driver's hackney carriage and private hire licences. The Hearing Panel sought clarification on the definition of the terms used in the offences as stated under the legislation and was advised and accepted that the circumstances described by the driver's solicitor could amount to the offence being defined in that way.

The Hearing Panel noted that the court had not opted to request a probation report as was usual for similar offences.

On balance, the Panel noted that the driver had held a licence for 34 years determined that the licence holder is a fit and proper person to hold a licence.

Accordingly, the hearing panel departed from its guidelines and decided to suspend both the drivers' licences for 28 days.

### **Decision**

To suspend the Hackney Carriage Licence and Private Hire Licence held by BJ for 28 days.

### **LACHP/24/6. Application for a New Hackney Carriage Driver Licence - MZ**

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 taxi licensing hearings.

MZ attended the hearing and was not supported.

The Hearing Panel heard representations from the Licensing Officer that the Applicant had been convicted in October 2022 of using a mobile phone whilst driving and that 6 penalty points had been endorsed on his licence. The Hearing Panel was advised that the driver has a private hire licence with Oldham MBC and had recently been suspended for 2 months in respect of the same conviction.

The driver indicated that he had made a silly mistake in answering his mobile phone whilst driving. He did not appeal his suspension as he knew that he was in the wrong.

The applicant explained that he wished to apply for a Hackney Carriage Licence with Manchester Council as working in the City presented him with an opportunity to provide financial security for his family.

The offence is classed as a major traffic offence and as such falls within the Council's guidelines.

However, the Hearing Panel decided to depart from its guidelines, recognising that the Applicant was remorseful for his actions and that he was a fit and proper person to hold a licence with the Council.

### **Decision**

To grant the Hackney Carriage Driver Licence and to include a warning on the applicant's record concerning their future conduct.

### **LACHP/24/7. Review of a Private Hire Driver Licence and Review of a Hackney Carriage Driver Licence - AHM**

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 taxi licensing hearings.

MAH attended the hearing and was not supported.

The Hearing Panel heard that the driver had been convicted in November 2023 after pleading guilty to offences of plying for hire / driving without insurance and fined with 8 penalty points endorsed on his DVLA licence.

The Hearing Panel heard that the offences had occurred during March 2023. The licence holder had agreed to carry two undercover officers without the job being pre-booked with his operator. The constables had been involved in Operation Aztec, an exercise to identify if taxi drivers were adhering to the legislation when accepting bookings.

The driver explained that due to difficulties with finances, this had motivated him to work long hours and carry out as much work as he was able to do for the benefit of his family. He wanted to set an example to his children that working hard was the way to advance in life. The driver explained that he had been working since 1999 and there had never been any issues or complaints made about his driving.

When questioned by the Hearing Panel he accepted that it was wrong of him to accept the booking without checking that it had been pre-booked. He stated that it would not happen again and that it had been purely motivated by the need to support his family.

The Hearing Panel chose to depart from its guidelines to revoke his licence and issue him with a warning about his future conduct with a stern reminder that any future transgressions may not be viewed as leniently in the future.

### **Decision**

To issue the licence holder with a warning concerning the conviction of plying for hire /driving without insurance and that the warning be placed on file concerning the licence holder's future conduct.

**LACHP/24/8. Renewal of a Private Hire Driver Licence - AM**

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 taxi licensing hearings.

AM attended the hearing and was not supported.

The Hearing Panel was advised by the Licensing Officer that the Applicant had failed to disclose in his application that he had a traffic conviction for driving without due care and attention around November 2022.

The Applicant advised the Hearing Panel that he is seeking to have the conviction set aside and produced court papers to indicate that a court hearing was fixed for the for 7 May 2024, to hear the Application.

Full details were not clear in the court notice, but it was felt appropriate to defer the matter given that a court hearing was pending.

Accordingly, the Hearing Panel made the decision to defer consideration of the matter to a new date after the court hearing has taken place.

**Decision**

To defer consideration of the renewal of the Private Hire Licence to a date after the 7 May 2024.

**LACHP/24/9. Renewal of a Private Hire Driver Licence - AAA**

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 taxi licensing. The licence holder was supported during the hearing by a translator.

The Hearing Panel was informed that the driver had been convicted in November 2022 of using a mobile phone whilst driving and fined with 6 penalty points endorsed on his DVLA licence.

It was explained to the Hearing Panel that the driver had only disclosed this to the Licensing Office in December 2023 after discovering it when he renewed his vehicle insurance.

The driver acknowledged that he had been stopped by a police officer who had observed him touching his phone whilst driving but claimed that he had never received any papers from GMP regarding any further action that was to be taken.

The driver produced court papers indicating that he had applied to the court to have the conviction set aside.

The conviction was set aside but the matter was relisted before the court in January 2024. The licence holder had pleaded guilty and was subsequently fined with penalty points endorsed on his licence.

The Hearing Panel recognised that the offence fell within its guidelines but chose to depart from them, instead deciding to issue the driver with a warning.

Hearing Panel determined that the driver had learnt a harsh lesson and now understood the need to ensure that he must not use or touch a phone under any circumstances whilst driving.

### **Decision**

To issue the licence holder with a warning concerning the conviction and that the warning be placed on file concerning the licence holder's future conduct.

### **LACHP/24/10. Review of a Private Hire Driver Licence - MYD**

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 taxi licensing.

The Licence holder attended the hearing.

The Hearing Panel was advised about two allegations of unbecoming conduct towards female passengers.

The Hearing Panel noted that the driver's licence had been suspended in June 2022 by the Licensing and Appeals Sub-Committee, after it came to light that an allegation of sexual assault was being investigated by GMP.

The Committee was advised that an incident had taken place in April 2022. The allegation was made by a female passenger who was being carried in the licence holder's vehicle. The driver is alleged to have made, what the passenger considered to be, inappropriate remarks made to her.

The complainant reported that she asked the driver to drop her at a point away from her property to avoid him discovering where she resided.

Further investigations made by the licensing compliance officer indicated that the driver was the person involved in the incident.

The driver was questioned in May 2022 and had provided his account of the pick-up and journey. The was repeated to the Hearing Panel. The driver denied the allegations, saying they were not true.

The Hearing Panel was then advised about a second allegation made against the driver that is alleged to have taken place less than two months later concerning a sexual assault upon a lone female.

The driver had been arrested in June 2022, following the observations of an off-duty police officer and a complaint was subsequently made.

The Hearing Panel carefully considered the contents of the report, the representations made by the Licensing Officer and those of the driver when arriving at its decision.

The Hearing Panel was concerned that two allegations of a sexual nature occurring within the space of a period of less than two months had been made against the driver.

The Hearing Panel noted that in relation to the first incident in April 2022 that a comprehensive statement had been provided by the complainant outlining in detail a version of events that had occurred on the morning in question. It also noted that a call had been made by the complainant on the same morning to the taxi operator to report the incident, this was after confirming the operator of the licence holder and not the taxi operator as originally alleged to have been stated by the licence holder.

The Hearing Panel considered the driver's version of events but determined that the complainant's version was more credible.

In addition, the Hearing Panel took into account the second incident which took place in June 2022 when an allegation was made that the driver was observed by an off-duty police officer.

Whilst the Hearing Panel noted that a decision had been taken in March 2023 not to charge the driver with sexual assault for the second incident the Hearing Panel had grave concerns about the alleged actions of the driver.

The Hearing Panel was reminded that the test to be considered was whether, on the balance of probabilities, the Committee was satisfied that the driver was a fit and proper person to hold a licence.

On consideration of the report and the representations made to it, the Hearing Panel was not satisfied that this was the case and felt that the conduct of the driver was unbecoming of a taxi licence holder.

The Committee's paramount consideration is the protection of the public and consequently the decision was made to revoke the Private Hire Drivers' Licence with immediate effect.

## **Decision**

To Revoke licence with immediate effect.

### **LACHP/24/11. Application for a New Private Hire Driver Licence - AA**

The Hearing Panel were informed that AA had failed to attend, and it was deemed appropriate to allow the Applicant a further opportunity to attend.

## **Decision**

To defer consideration of the application.

### **LACHP/24/12. Review of a Private Hire Driver Licence and Review of a Hackney Carriage Driver Licence - MI**

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 taxi licensing.

The Hearing Panel was advised that the Applicant had failed to disclose a conviction for MS90 conviction which had resulted in 6 penalty points being endorsed on his licence.

During the hearing, the driver produced documentation to support his claim that he was not the person driving the vehicle at the time of the incident. He had allowed a third party to drive the vehicle but when he completed the Notice of Intended Proceedings form it was apparent that the wrong address of the person driving had been inserted on the form.

The Committee accepted that he had made a mistake in failing to disclose the conviction and that he would take steps to look at overturning the conviction.

Consequently, the Committee made the decision to take no further action regarding his current licences.

## **Decision**

That no further action be taken concerning the driver's private hire licence and hackney carriage licence.