

Licensing and Appeals Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 8 April 2024

Present: Councillor Grimshaw – in the Chair

Councillors: Hughes and Judge

LACHP/24/27. 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/24/28. Application for a New Private Hire Driver Licence - AA

The Licensing Unit confirmed to the panel that AA could not appear before them today as there was no available interpreter.

Decision

To defer the hearing until the next available date for an interpreter to attend.

LACHP/24/29. Application for a New Private Hire Driver Licence - SJG

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 Licensing Unit officer stated that this was an application for a new private hire driver licence. SJG had declared a caution for possession of cannabis dating back to January 2021. SJG has other convictions for possession of a controlled drug and a number of allegations investigated by Police involving drugs and sexual assault which have resulted in no further action. There were other issues relating to theft, drugs and driving under the influence of alcohol at paragraph 3.3 of the report.

SJG stated that they have a clean driving licence and have undertaken other work in the driving trade, bus, coach and taxi and that they enjoy working with the public and

driving in general. SJG preferred this type of work to an office setting and was always willing to assist older people and taking extra time for them.

Under questioning, SJG confirmed that they got involved with drugs at a young age after leaving school but this was all in the past, that the large quantity of smaller, individually portioned wraps found by police belonged to SJG's partner who did this to stretch out the use of the substance, that SJG took the blame for this to protect their partner, that the local Police Office knew that the wraps were not for SJG's use, that the importation of a controlled substance was a false allegation, that they had no case to answer regarding sexual allegations; 1 was a neighbour, 2 was a friend and that SJG did not match the description for the most recent case. SJG answered further questions, stating that they held an MCC licence from 2012-16, was not licensed in other LAs and that officials can believe what they want regarding any case with insufficient evidence.

The Licensing Unit Officer summed up by stating that all convictions and allegations were included in the report and that the Unit would not have had this information when SJG was licensed but added that better systems were now in place.

SJG summed up their case by stating that they did not want to come across as argumentative but it had been difficult to have gone through so these historical allegations all over again, that they were not a bad person and wished to drive and serve the public again.

In their deliberations, the Hearing Panel took into consideration the Statement of Policy and Guidelines as well as the relevant statutory guidance. The Hearing Panel did not accept that the wraps of a controlled substance were for personal use and noted that this offence was still live and within the Guidelines. With other notable allegations against SG which had the potential to put the public at risk, the Hearing Panel could see no reason to depart from the Guidelines.

Decision

To refuse to grant a licence to SJG.

LACHP/24/30. Review of a Hackney Carriage Driver Licence - RS

The Licensing Unit confirmed to the panel that RS could not appear before them today due to illness and had provided a GP letter.

Decision

To defer the hearing until the next available date.

LACHP/24/31. Review of a Hackney Carriage Driver Licence - ZA

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 Licensing Unit officer stated that 4 penalty points from an SP30 were upgraded to a major offence. There were other, historical issues listed in the report for:

- acquire/use/possess criminal property and MS90 and Failure to give information as to identity of driver
- SP50 - Exceeding speed limit on a motorway attracting 4 penalty points
- Use threatening abusive insulting words / behaviour or disorderly behaviour to cause harassment / alarm / distress and undisclosed traffic offences
- Using insurance document with intent to deceive

The Licensing Unit officer confirmed that AZ had notified the Unit in good time of the latest offence and that penalty points increase incrementally according to how much the speed limit is exceeded by.

ZA addressed the Hearing Panel and stated that they were in their private vehicle, not their Hackney Carriage, when they were caught speeding. At the time, ZA was caring for an unwell parent and staying with them so missed the letter regarding the offence. ZA could have responded and taken the speeding course but missed the chance to respond in time. An additional penalty point was added for the late response.

The Licensing Unit Officer confirmed that this is proper procedure.

In their deliberations the Hearing Panel considered that ZA had informed the Unit of the offence in good time and that personal circumstances had impeded their timely response to the letter. The Hearing Panel determined that this was unfortunate and attached a warning so as to remind ZA to be mindful of their responsibilities in future.

Decision

To attach a warning to ZA's licence.

LACHP/24/32. Review 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.

The Licensing Unit officer stated that AM had a conviction for obstructing a Food Safety & Hygiene inspection. AM was imprisoned for 6 months and suspended for 24 months. The Licensing Unit were not immediately informed of this. On discovering this information the Unit ran further checks and found other convictions on AM's record. AM was contacted to state that they need to inform the Licensing Unit in future.

AM's appointed representative, Mr Kaufman, confirmed that there had been 1 failed disclosure regarding the aforementioned obstruction and fully accepted this. AM relied on others to assist on completing all manner of official forms but accepts that this is their responsibility. AM stated that they had worked as waiting on at a restaurant and officers had entered to do the inspection and enquired on ingredients in the food on sale. AM expressed that they were not aware and this is their version of the events. AM gave a guilty plea and did not try to go behind the conviction. AM played a minor role in this conviction and the officials did not accept that they knew as little as they had claimed. There were no other offences to consider – AM had paid a surcharge, had 9 penalty points on their licence, 3 of which elapsed in May 2024 with the other 6 expiring in the February and October following. All these were speeding incidents. AM has an otherwise satisfactory record. There were no behavioural issues for the panel to consider and, had the matter been disclosed, the panel may have had some hesitation in granting the licence. Regarding the ABH noted at paragraph 3.5 of the report, AM denies this, states it was in self-defence and that there was no charge brought against them. This incident was 8 years ago. AM was deemed to be fit and proper to hold a licence in all other respects and was a sober, mentally & physically sound driver. AM was very sorry for the incident and if any action were to be taken against them then perhaps a suspension would be most fitting.

In responding to questions from the Licensing Unit Officer and the Panel, AM stated that the inspector was present when the manager was not, there was no other information to give regarding the guilty plea, there was no physical obstruction, they were first licensed in 2012, their spouse had sometimes assisted in completing form, that they were aware that this was their responsibility, that they had completed 2 forms in the past, there was a licence application with another LA, this was because other friends had also applied for this area and that they would prefer to work in Manchester as this is their home city.

In summing up, the Licensing Unit Officer stated that AM should know to disclose information having had traffic conviction in previous years.

Mr Kaufman summed up for AM by stating that, if there had been any misunderstandings in the past, they were cleared up now and AM would always inform the City Council of any issues.

In their deliberations, the Hearing Panel were concerned about the offence and subsequent imprisonment and considered that there was more than likely more to the story. The Hearing Panel had regard for the historical nature of the incident within a different trade but noted other incidents on their record and determined that there should be some penalty handed down to remind AM that they have a duty to inform the Licensing Unit in future of any convictions etc.

Decision

To impose a 21 day suspension on AM's licence.

LACHP/24/33. Review of a Private Hire Driver Licence - BC

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 Licensing Unit officer stated that BC received a Domestic Violence Protection Notice and Order at Manchester and Salford Magistrates from 7 November 2023 to 4 December 2023. BC also has a NFA action on a charge of Intentional Strangulation plus has a history of allegations of a similar nature, all with NFA outcomes. There were 5 other prohibitions and non-convictions from other assaults from 2014 to this latest incident.

BC addressed the Hearing Panel and stated that they had an argument with their spouse (their spouse attended the hearing with BC). After a cooling off period of just two days the matter was resolved.

Under questioning, BC confirmed that all matters raised had occurred in the family home, that matters were always resolved between the pair after a short time following an argument, that the incident in 2022 was with their son and BC had made efforts to work on their temper, stress can sometimes build up, the son was 15 at the time of the incident, that the pair had lived separately for a time with BC spending time back in their home country to relax and everything was fine on their return. BC confirmed further matters stating that they had some treatment in their home country and that there were no mental health issues.

BC's spouse addressed the Hearing Panel and stated that they had spoken to BC's brother who had them go to visit them abroad to relax. The spouse added that it was a good move to call the police as it settled the matter quickly. The pair have spent 18 years together and the family recognise their value in the home. BC is a good person and has always provided for the family.

Under questioning, BC and their spouse stated that they would allow themselves a cooling off period and go into separate rooms for any future arguments and that they would not let themselves become heated in future.

In summing up, the Licensing Unit Officer referred the Hearing Panel to the list of incidents again.

BC stated that they would remain calm in future.

In their deliberations, the Hearing Panel took into consideration the Statement of Policy and Guidelines as well as the relevant statutory guidance. The Hearing Panel considered that all offences had taken place in the family home but had concerns about BC's temper around the public and determined that a minor penalty should be put in place to send a clear warning to BC on their future conduct both at home and in their profession.

Decision

To impose a 21 day suspension on BC's licence.

LACHP/24/34. Application for a New Private Hire Driver Licence - PP

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 Licensing Unit officer stated that PP has a conviction for stalking, which falls within the guidelines, adding that this was declared on the application. There was a communication order imposed and £85 costs. There were also non-convictions for similar incidents.

PP confirmed that the information was correct in the report and addressed the Hearing Panel and stated that they could not sufficiently explain their case at court via their solicitor. PP had spent 6 years with their previous partner with no quarrels but they left PP suddenly. PP found a note explaining that their partner had been having an affair at work. The pair shared a mortgage and PP sent messages which was later counted as stalking. PP was attempting to contact their ex-partner to try to fix the relationship as they had no face to face meetings anymore. PP travelled to the ex-partners workplace and left a note explaining that they were very hurt. The use of the word "massacre" was mistranslated from the use in PP's mother tongue which is used very casually. PP stated they had held a trusted position in their current position.

Under questioning, PP confirmed that there was a 5 month period since the break up in February 2021, that the police had not noted that the ex-partner had visited PP to discuss mortgage issues without any problem, that they were on minimum wage and couldn't afford the mortgage which caused PP a lot of stress, that the ex-partner had no good cause to be scared of PP, they were arrested twice but one letter had gone to the incorrect address when PP was away with their new partner. PP confirmed that the second arrest was for not appearing at court but this was out of their control with the letter going to the wrong address, that the claim of violence causing the break up was unfair and untrue, that PP was instructed to plead guilty to gain a lesser penalty and that they had completed a rehabilitation course.

The Licensing Unit Officer summed up by stating that the offence was within the guidelines as a lesser grade public order offence with a three year tariff.

PP summed up their case by stating that they had simply tried to contact someone who had left them and left them with a house and mortgage, that they have had a new partner now for two and a half years and that they were portrayed as a nasty character in the newspaper but this is not how they really are.

In their deliberations, the Hearing Panel considered PP's honesty throughout the matter, informing the Unit of the offence on application and during their statement and questioning at the hearing and felt that PP had gone through a difficult enough time to have been sufficient warning to them already but determine that a warning should be placed on their record to keep such a reminder in place.

Decision

To grant PP with the licence with a warning attached.

LACHP/24/35. Review of a Hackney Carriage Driver Licence - EE

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 Licensing Unit officer first handed out a written statement from EE and then stated that there were a number of conduct issues and complaints against EE of poor driving and poor language. EE started as a Private Hire driver then moved to Hackney Carriage in 2020. Complaints had risen recently, having begun and continued from 2019, 21, 22 and more recently receiving 3 in 2023.

EE addressed the Hearing Panel and stated that they had 4 children and had driven in the taxi trade since 2017, holding a private hire licence until they passed the Hackney Carriage test. EE expressed that being on the road for a long amount of time can be troublesome. A fellow driver had started a problem but EE raised that they know they should be more aware of their response and to stay calm.

EE went through each incident sequentially:

- 1) EE went to the toilet at Piccadilly train station and three other drivers claimed that EE had blocked other drivers in the rank. There was alleged bad language in front of passengers from EE.
- 2) EE was attempting to get into Piccadilly station and used an outside lane to turn left due to a tailback. Another driver swore at EE and took his licence plate
- 3) EE had a family for a journey who abused him and called him names so EE cancelled the fare before leaving the station.
- 4) EE had set a fare of £20 with a passenger due to bad match day traffic. There was an issue with the amount paid by the customer and a Unit Officer got in touch with EE to resolve the matter
- 5) A driver wanted to report EE
- 6) EE had a fare to drive to Macclesfield and the passenger then claimed that they had been overcharged

Under questioning, EE confirmed that the taxi rank was not for parking but for the collection of passengers, accepted that their bad driving affects others, EE accepted the use of bad language in case number 3 but added they tried using diplomacy in the first instance, that they had partly refunded for case 4 due to the nature of the

complaint and not because EE considered that they had overcharged the fare, that the fare to Macclesfield was not an overcharge either as the passenger had EE head out that way and then kept extending the journey and the fare built up, that EE knew the rank and other drivers at Piccadilly station and that any taxis behind EE when they parked to use the toilet were gone when he returned so it was a false claim that they had been blocked in.

The Licensing Unit Officer summed up by stating that there was a common theme to the complaints of rudeness and bad language and that EE should be mindful of better communication to stay out of trouble.

EE summed up by stating that they acknowledged their mistake with regard to behaviour and language and that they are mindful that they are the first people some visitors meet when arriving in Manchester. EE promised no further complaints would arise from their conduct.

In their deliberations, the Hearing Panel took into consideration the Statement of Policy and Guidelines as well as the relevant statutory guidance. Due to EE's acceptance of their mistake in many cases and showing some remorse alongside having an otherwise clean licence, the Hearing Panel felt it appropriate to issue a warning to EE this time.

Decision

To attach a warning to EE's licence.