

Licensing and Appeals Sub Committee Hearing Panel

Minutes of the meeting held on Monday, 1 July 2024

Present: Councillor Conolly – in the Chair

Councillors: Hilal and Judge

LACHP/24/65. 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/24/66. Application for a New Private Hire Driver Licence - SAS

The Hearing Panel considered the report from the Head of Planning, Building Control and Licensing regarding the above application. SAS attended the hearing and was assisted in the hearing with an Interpreter that was provided by the Council. The oral representations of all of the parties who attended were also considered, in conjunction with the relevant guidance. The matter was considered in line with the established procedure for taxi licensing hearings.

The Licensing Unit officer noted that this was an application for a new private hire driver licence. SAS had been licensed by a different authority previously and had been convicted of plying for hire during Operation Aztec, a conviction that brought 6 penalty points. That was the reason for SAS being referred to the Sub Committee Hearing Panel.

SAS accepted that they had plied for hire, acknowledged their mistake and apologised. They noted they had received 6 penalty points, a £150 fine and the cost of their insurance had gone up. SAS felt that was punishment enough.

In questions, SAS acknowledged the seriousness of their offence but noted that they were a new driver at the time and did not realise then. They had since realised the seriousness and understood the repercussions if it was to happen again.

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

SAS summed up by stating that they wanted the Licence for an income source.

In reaching its decision, the Panel took into consideration the Council's Statement of Policy and Guidelines and statutory Taxi and Private Hire Vehicle Standards. The panel accepted that SAS had taken responsibility for their actions and was a fit and proper person to hold a licence. They noted there had been 18-months without further incident.

Decision

To grant the licence with a warning attached as to future conduct.

Review of a Hackney Carriage Driver Licence - RS

The Hearing Panel were informed that RS had submitted a fit note. However, this was the fourth time that this review had been listed to be heard and it was noted that after the previous deferral, RS had been informed that the item would be heard regardless of if they attended. The Panel therefore decided it was in the public interest to hear the matter in the RS's absence.

The Licensing Unit officer informed the Hearing Panel that RS had their licence suspended with immediate effect due to a serious allegation that had been made against them, alongside a previous serious allegation. Their bail conditions prevented them from working as a taxi driver. There was a history of similar allegations that had brought no further action.

In reaching its decision, the Panel took into consideration the Council's Statement of Policy and Guidelines and statutory Taxi and Private Hire Vehicle Standards. In particular the Panel considered the considered the statutory guidance at 5.4 which states:

5.4 Fit and proper test:

"Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a fit and proper person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

If, on the balance of probabilities, the answer to the question is no, the individual should not hold a licence.

The panel were extremely concerned regarding the seriousness of the allegations and felt that RS posed a serious risk to passengers was no longer a fit and proper person to hold a licence. The panel felt that this was an issue of public safety.

Decision

To revoke the licence with immediate effect.

LACHP/24/68. Renewal of a Private Hire Driver Licence - MB

The Hearing Panel were informed that MB required an interpreter but had not requested one until the day, when one was not available. The panel felt it necessary to defer the hearing to a later date to allow for MB to attend with an interpreter.

Decision

To defer the hearing to a later date.

LACHP/24/69. Application for a New Private Hire Driver - GO

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

The Licensing Unit officer informed the panel that this was an application for a new private hire driver licence for GO who had previously held a licence with Manchester, but their renewal was refused in 2019. The convictions were now outside of the guidelines, but given the nature of the convictions, it was thought fit to bring GO to a hearing. There were questions as to whether GO met the fit and proper requirement.

GO stated that they were applying for another opportunity and that they had learnt their lesson from previous issues.

In questions, GO noted that they had not had any convictions since the last issue and had been working in a different job since. GO stated that they had learnt to manage their feelings better without resorting to violence. They would now walk away from any trouble.

The Licensing Unit summed up that there was a long history of issues on GO's record. Since their renewal application was refused in 2019, there had been further domestic issues.

GO summed up that they could now see their children.

In reaching its decision, the Panel took into consideration the Council's Statement of Policy and Guidelines and statutory Taxi and Private Hire Vehicle Standards. In particular the Panel considered the statutory guidance at 4.9 and 5.4 which states:

4.9 Complaints against licensees

Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence.

5.4 Fit and proper test:

“Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver’s licence is a fit and proper person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

If, on the balance of probabilities, the answer to the question is no, the individual should not hold a licence.

Licensing authorities have to make difficult decisions but (subject to the General principles) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be given the benefit of doubt. If the committee or delegated officer is only 50/50 as to whether the applicant or licensee is fit and proper, they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

The panel had real concerns about the lack of remorse GO had shown. They noted that there was a long history of convictions and allegations that showed a pattern of violent behaviour and that there had been further allegations since the previous refusal to renew. There were also complaints as to GO’s conduct when working as a licensed driver. Given all the above convictions, allegation and complaints against the applicant the Panel were of the view that on the balance of probabilities GO was not a fit and proper person to hold a driver’s licence.

Decision

To refuse the application for a Private Hire Driver Licence.

LACHP/24/70. Review of a Private Hire Driver Licence - HSM

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

The Licensing Unit officer addressed the Hearing Panel, noting that this was a review of a private hire driver licence due to HSM having a recent conviction in relation to fraudulent insurance policies for which they received a 10-month suspended sentence.

HSM addressed the Hearing Panel and provided their explanation of what had happened. In their statement and questions, they noted that they had helped people to complete forms and had never received payment for that. Some of the information provided had been wrong and that was how HSM was found out.

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

HSM summed up that they did not realise they were doing anything wrong but had since plead guilty.

In reaching its decision, the Panel took into consideration the Council's Statement of Policy and Guidelines and statutory Taxi and Private Hire Vehicle Standards. The panel noted that there were nine convictions, and they were serious. The panel noted that the offence dates were a number of years ago and were therefore satisfied that they could step outside their guidelines as there had been no issues since.

Decision

To issue a warning on HSM's licence.

LACHP/24/71. Application for a New Private Hire Driver Licence - MSN

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

The Licensing Unit officer addressed the hearing panel, noting that this was an application for a new private hire driver licence. MSN had an MS90 conviction, failure to provide information as to the identity of a driver which attracted 6 penalty points.

MSN addressed the panel, noting that they had appealed the decision but had not yet receive a response. MSN brought additional information to the hearing that was provided to the panel. They accepted the offence of speeding, but MSN was unaware it had happened due to not receiving any letters. MSN apologised for what had happened.

In questions, MSN noted that they only found out about the conviction when receiving a letter from Court that informed them of the 6 penalty points. They have a shared post box at home, and this could have led to the issue. MSN had arranged for a separate post box for their future mail.

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

MSN summed up by apologising to the panel and noting that they would be more aware in the future.

In reaching its decision, the Panel took into consideration the Council's Statement of Policy and Guidelines and statutory Taxi and Private Hire Vehicle Standards. The panel were satisfied with the explanation provided by MSN and accepted that MSN had not received the necessary letters and had now fully admitted the offence of speeding. This is an isolated conviction with no other convictions or traffic matters

against MSN and the Panel were therefore of the view the applicant was a fit and proper person to hold a licence.

Decision

To grant the Private Hire Driver Licence.

LACHP/24/72. Review of a Private Hire Driver Licence - NZ

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

The Licensing Unit officer addressed the Hearing Panel and stated that this was a review of a private hire driver licence due to a recent conviction for Affray received by NZ that was within the guidelines.

NZ provided the panel with additional information at the hearing. NZ then provided their account of the events that led to the conviction for Affray. They noted that they had been driving as a licenced driver for 27 years without a complaint being received.

The panel asked NZ further questions regarding their conviction, to which NZ provided responses.

Neither the Licensing Unit nor NZ had anything to add when invited to sum up.

In reaching its decision, the Panel took into consideration the Council's Statement of Policy and Guidelines and statutory Taxi and Private Hire Vehicle Standards. The panel noted that it had been five years since the offence, although the conviction did still fall within the guidelines. The panel noted that NZ had accepted that they had done it and provided their mitigation. NZ had worked for 27 years with no issues or complaints. The panel were satisfied that NZ was a fit and proper person to hold a licence and were willing to step outside their guidelines for that reason.

Decision

To issue a warning as to future conduct.

LACHP/24/73. Review of a Hackney Carriage Driver Licence - MR

The Hearing Panel considered the report from the Head of Planning, Building Control and Licensing regarding the above application. MR attended the hearing and was assisted in the hearing with an Interpreter that was provided by the Council. The oral representations of all of the parties who attended were also considered, in conjunction with the relevant guidance. The matter was considered in line with the established procedure for taxi licensing hearings.

The Licensing Unit officer addressed the Hearing Panel, noting that this was a review of a hackney carriage driver licence held by MR that had been brought due to recent complaints regarding fare overcharge. There were a number of complaints regarding overcharging and MR's conduct on their record.

MR addressed the Hearing Panel, stating that they felt the complaints were untrue and customers had lied. They stated they had proof of this.

Under questions from the Licensing officer and the panel, MR stated that they fix prices before some journey's and do not use the meter where this occurs. They stated that of the nineteen complaints received, at least 70% of them were untrue. They noted that where it was true, they had apologised and paid back customers they had overcharged.

The Licensing Unit officer summed up that MR had previously received a warning and there was a pattern of behaviour relating to their conduct and overcharging. They noted that drivers were obliged to use their meter within Manchester boundaries.

MR summed up that they believed a number of the complaints to be untrue and accepted they do not use the meter when a fare has been agreed.

In reaching its decision, the Panel took into consideration the Council's Statement of Policy and Guidelines and statutory Taxi and Private Hire Vehicle Standards. In particular the Panel considered the Statutory Guidance at 4.9 which states:

4.9 Complaints against licensees

Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence.

The panel considered that MR had shown a disregard toward their passengers and had no acceptance of the importance of using the metre, despite this being a legal requirement. The panel felt that MR needed time to reflect on, and modify, their behaviour.

Decision

To issue a 3-month suspension of MR's Hackney Carriage Driver Licence.