

Licensing and Appeals Sub Committee Hearing Panel

Minutes of the meeting held on Wednesday, 20 December 2023

Present: Councillor Andrews – in the Chair

Councillors: Connolly and Reid

LACHP/23/129. 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/23/130. Review of a Hackney Carriage Driver Licence - AA

The Hearing Panel considered the report from the Director 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 a number of complaints that had been received regarding AA. Three of those had been received in the last 18-months, with the most recent in July and August 2023. AA had been approached for comment but had not responded. AA also had 1 CD10 conviction dated 17 February 2022.

AA's trade union representative queried why some of the complaints received were contained within the report when they were unfounded. The Licensing Unit officer noted that all complaints are added in the interests of fairness, but it is stated where complaints are unfounded.

AA addressed the Hearing Panel, supported by their trade union representative. AA attempted to clarify the details contained within the report, addressing the most recent complaints received and provided their side of the story. AA's trade union representative with evidence to show that a claim of overcharge was unfounded.

The Licensing Unit officer and the panel questioned AA's version of events further relating to the complaints received. During questioning, it was noted that AA did not own their vehicle and therefore any correspondence from the Licensing Unit goes to the owner of the vehicle. This was provided as the explanation for a lack of response provided to communication from the Licensing Unit.

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

AA summed up by stating that they maintain their professionalism and a polite manner when engaging with customers.

In their deliberations, the Hearing Panel took into consideration the Statement of Policy and Guidelines as well as the relevant statutory guidance. The panel noted that the evidence provided was hearsay. The panel were satisfied with the explanations provided by AA regarding the complaints received, particularly the two most recent. The panel were satisfied that AA remained a fit and proper person.

Decision

To take no further action.

LACHP/23/131. Review of a Hackney Carriage Driver Licence - MAC

During the hearing, MAC surrendered his Licence. The panel acknowledged the years of service of MAC, thanking him for his contribution to the City and the trade.

As MAC had surrendered their Licence, no decision was necessary.

LACHP/23/132. Review of a Private Hire Driver Licence - MIA

The Hearing Panel considered the report from the Director 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 MIA had informed the Unit of their disqualification from driving in August 2023. They had only informed the Unit in December 2023 but had apologised for that. The disqualification was due to end in February 2024.

MIA addressed the Hearing Panel, apologising for not informing the Licensing Unit earlier. They noted they had not utilised their Licence since 2019. For their disqualification, a friend had borrowed a vehicle MIA had leased and had been caught speeding in it three times. MIA provided the friend with the letters regarding this, but they provided false information. MIA accepted they should have provided the details.

The panel queried if MIA still wanted a Licence. MIA stated that they kept their Licence as a backup.

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

MIA 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 that MIA did not hold a current DVLA Licence and therefore they had no option other than to revoke the Licence.

Decision

To revoke the Private Hire Driver Licence with immediate effect.

LACHP/23/133. Review of a Hackney Carriage Driver Licence - ASK

The Hearing Panel were informed that ASK had requested an interpreter in good time ahead of the hearing. An interpreter could not be found.

Decision

To defer the review until a later date.

LACHP/23/134. Review of a Hackney Carriage Driver Licence - MMS

The Hearing Panel considered the report from the Director 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 a total of nine complaints had been received regarding MMS since 2010. There was a theme throughout the complaints relating to smoking, with two fixed penalty notice being issued to MMS for smoking.

MMS stated that when they had been requested to bring their vehicle in for inspection by an Officer, they had been shouted at by the Officer. They stated that they had never overcharged a customer but had refused to assist with luggage.

The Licensing Unit officer was unaware of MMS being shouted at. However, they did note that the officer had witnessed the car being dirty. MMS stated that they clean their vehicle twice a week and does not smoke in the vehicle.

The panel raised concerns regarding the cleanliness of MMS' vehicle, assisting customers and smoking in the vehicle. MMS stated that their vehicle was not dirty, they helped nearly all customers and did not smoke in the vehicle.

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

MMS summed up by stating that they had never overcharged a customer and never been rude to a customer. MMS accepted that they take issue with how people sometimes speak to them. MMS restated they did help people.

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 there was a theme throughout the complaints, relating to smoking, vehicle cleanliness and MMS' attitude towards customers. However, the panel did remain satisfied that MMS was still a fit and proper person to hold a Licence.

Decision

To issue a warning to pay attention to the cleanliness of the vehicle, assisting passengers and not smoking in the vehicle.

LACHP/23/135. Review of a Hackney Carriage Driver Licence - FM

The Hearing Panel considered the report from the Director 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 Hackney Carriage Driver Licence. The Licensing Unit had received notification in November 2022 from GMP of an alleged sexual assault against FM. FM's Licence was suspended with immediate effect and brought before a panel on 19 December 2022 where the suspension was upheld pending the conclusion of GMP's investigation. The Unit had been notified that there would be no further action in relation to the criminal case, however GMP intended to apply for a Sexual Risk Order against FM that would prevent their ability to hold a Licence. FM's suspension was still in place.

The panel sought clarity on the information GMP had provided relating to the application for a Sexual Risk Order. The Licensing Unit had been informed of the intention to apply for the order in October and had expected the application would have been made by now. There had been no indication in recent communication of when the application would be made.

FM attended the hearing, supported by an interpreter provided by Manchester City Council and a trade union representative. FM's trade union representative provided the panel with a document referencing case law. They felt that the panel could not suspend FM's Licence then revoke it based on the same evidence.

The panel's legal representative noted that at the time of the suspension, there was little evidence. The panel had now been made aware of there being no further action in the criminal proceedings against FM and the forensic evidence discovered by GMP, both amounting to new evidence for the panel to consider.

The Licensing Unit officer summed up by stating that the report also contained a record of previous complaints against FM that had led to a 3-month suspension.

FM's trade union representative summed up by stating their belief that there was no new evidence to consider. They stated that any new evidence had to be facts that put a different complexion on the case.

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 new evidence contained within the report offered a different complexion on the case, particularly further forensic evidence. In considering this new evidence, the panel were not satisfied that FM was a fit and proper person to hold a Licence.

Decision

To revoke the Hackney Carriage Driver Licence with immediate effect.