

Licensing and Appeals Sub Committee Hearing Panel

Minutes of the meeting held on Thursday, 20 December 2018

Present: Councillor Ludford (Chair)

Councillors: S Lynch and McHale

LACHP/18/116. Exclusion of the Public

A recommendation was made that the public is excluded during consideration of the 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/18/117. Application for a Review of a Hackney Carriage Driver Licence. (AB)

The Respondent attended and was unrepresented.

The Committee were made aware of the details of 13 complaints made against the Respondent since 2012, four of which had been received within the last two years. It was noted that two of the thirteen complaints had been without merit. The Licensing Representative also accepted that the matters could have been dealt with more promptly.

The Respondent was questioned regarding complaints numbered one, three, five and six and generally about the other complaints.

Complaint No. 1 – he described the passenger as drunk and abusive having told him to ‘Take me to fucking HSBC’ and would not clarify which area he wanted to go to. The Respondent stated he had to get the Marshall at the airport to them but the male continued swearing at him. He disputed the allegation.

Complaint No. 3 – he stated the female was 25/30 years of age and there was an issue as to where he could turn his vehicle around which caused him to drive the opposite direction to the direction of the journey, to enable him to do so. He disputed the allegations of verbal abuse in their entirety.

Complaint No. 5 – The Respondent recalled the incident stating the customer was a builder going to Regent Road and he had wanted to save him time and so had gone via Liverpool Road. When they arrived the customer had given him a twenty pound note which he had held up to the light and checked. The customer had taken offence

at this and the Respondent had told him he received false notes several times from the South African community. He said he gave him a receipt and he was gone.

Complaint No. 6 – The Respondent again remembered the journey and disputed the allegations completely. He stated the female was drunk and out of order asking him for a receipt for more than she paid. He confirmed the police had attended at the address in relation to the incident and they had been laughing about it. He disputed any verbal abuse or discussions regarding sexual offences.

The Respondent confirmed he disputed all complaints in their entirety.

The Committee noted there had been a catalogue of complaints from eleven people who did not know each other and with a common theme of aggression and verbal abuse running throughout. The Committee did not find the Respondent's account credible on the basis of this and the fact that he disputed all matters completely.

The Committee was extremely concerned regarding the incidents concerning females and the particular use of the word 'Bitch' and the references to sexual offences.

The Committee also noted the Respondent's demeanour throughout the proceedings, noting he was constantly interrupting and speaking over the Committee members which was indicative of his attitude. The Committee applied the principles laid down in *McCool v Rushcliffe Borough Council 1998* regarding what constitutes a fit and proper person and found the Respondent not to be so.

The Committee therefore revoked the Respondent's licence and due to their grave concerns regarding his attitude towards members of the public and in particular the female customers, they exercised their powers under s61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 and revoked the licence with immediate effect.

Decision

To revoke the licence with immediate effect.

LACHP/18/118. Application for a New Private Hire Driver Licence. (LT)

The respondent was in attendance and was not represented.

The Licensing Unit advised that the Applicant had previous convictions which was the reason for the appearance before the Committee, in particular those for supplying Controlled Drugs were within the ten year guidelines period outlined within the Statement of Policy and Guidelines and therefore the Committee needed to consider whether the Applicant was a fit and proper person to hold a Private Hire Licence.

The Applicant explained the offences were committed eight years ago in his 'past' when he was much younger and as a result of the people he associated with he was drawn into the world of criminality; he had subsequently served his prison time in relation to those.

Since his release from the Young Offenders Institution, he had worked full time, obtained qualifications, had a new partner, two children and a new home.

He explained prior to his imprisonment he had not completed college however, upon his release he enrolled in a college, became a fully qualified scaffolder, obtained a 360 Dumper Roller licence to enable himself to gain employment and not return to that lifestyle. He no longer had connections with former associates and had moved from the area.

The Committee noted that although some of the offences were within the ten year guideline, it had also been almost eight years since the Applicant's release from prison and he had remained free of any criminal convictions. They noted within the policy that after five years consideration could be given to the circumstances of the offence and any evidence demonstrating the person is now a fit and proper person to hold a licence.

The Committee accepted the Applicants submissions that he had turned his life around and noted the significant change in his lifestyle and his application and commitment in doing so. They therefore granted the Application but with a stern warning that any conduct or issues relating to criminality would result in him being brought back before the Committee with a view to revocation.

Decision

To grant the application.

LACHP/18/119. Application for a Review of a Private Hire Driver Licence. (JLK)

The Respondent was not in attendance nor was he represented.

Mr Kabwika was convicted before the Greater Manchester Magistrates' Court on the 29th of October 2018 for offences of Illegally Plying For Hire and No Insurance. The Respondent subsequently lodged a Notice of Appeal against conviction and sentence and a date is yet to be fixed.

This matter was therefore adjourned pending the outcome of that Appeal.

Decision

To adjourn the matter to the first possible date after the conclusion of the appeal process.

LACHP/18/120. Application for a Review of a Private Hire Driver Licence. (OF)

The Respondent attended and was not legally represented.

The Committee was made aware of the incident which occurred on the 26th of November 2017 whereby the Licensing Unit and GMP were carrying out a multi-agency exercise checking Private Hire Vehicles.

The Respondent's vehicle was directed into a checkpoint where he was found to be carrying three passengers which had not been pre-booked.

The Respondent subsequently attended at court and entered guilty pleas to the offences of Illegally Plying for Hire and No Insurance.

The Respondent explained he had attended at a particular place in relation to a job; he was asked by three males to take them and he advised them he was waiting for someone to which one of the males stated, 'That's me'. They got in and he drove them towards Deansgate Locks and was stopped at the Hilton Hotel by the officers.

The Committee referred to the Statement of Policy and Guidelines and as to whether the Respondent was a 'fit and Proper' person to hold the respective licenses. Whereas they commended the Respondent for entering guilty pleas and not prevaricating, he had never-the-less pleaded guilty on the full facts including the No Insurance.

They noted one of the main purposes of the licensing regime and legislation was the protection of the public; the Respondent is in a position of trust carrying visitors and vulnerable people around the city; their safety is paramount and they should expect honest drivers who are fully insured in order to maintain the trust of the public they serve.

This offence was just over twelve months from the date of the committee and the relevant date being the date of conviction i.e. 25th of April 18 was less than twelve months from this date.

For these reasons, the Committee saw no reason to depart from the policy guidelines and revoked both licenses.

Decision

To revoke both licences with immediate effect.

LACHP/18/121. Application for a Review of a Private Hire Driver Licence. (AK)

The Respondent attended and was not legally represented.

The Committee was made aware of the complaint made on the 8th of October regarding an incident on the 5th of October involving two vehicles being despatched to the same location by Cresta Cars and the Respondent taking issue with other private Hire driver when the customer got into the wrong taxi. The issue was his subsequent conduct.

The Respondent accepted he was the driver and also the circumstances of the incident save for he did not accept he drove across the other vehicle but parked parallel to it to try and obtain the driver number. He accepted he had been confrontational with the other driver and had entered his vehicle to obtain the details from the data device, but maintained that this was as a result of a request by his operator whom he was on the phone to throughout the incident.

He accepted the customer in the other vehicle would have been fearful and apologised regarding that and his conduct. He was not aware of a baby being in the vehicle until he entered the driver's side of the vehicle and explained he felt

extremely guilty as this occurred in front of the customer and apologised for his conduct and losing his patience. He explained he had apologised to the customer at the time. The incident lasted no more than twenty seconds.

When questioned regarding the incident resulting in Restorative Justice Disposal, the Respondent explained it had been in a location where he resided and youths had smashed his windscreen whilst he was in the vehicle and he had detained them. All of this had been captured on CCTV.

The Committee noted the Respondents acceptance of his conduct and the insight shown by him. Similarly the Restorative Justice disposal, whilst the incident was of some concern, they accepted the Respondent's explanation and noted he had accepted his actions and not sought to minimise matters. They also noted he had held his Private Hire Licence for five years without incident or complaint.

They therefore allowed the Respondent to retain his Licence with a warning being issue in relation to his conduct which would remain on file.

Decision

To issue a warning as to the future conduct of the driver.

LACHP/18/122. Application for a review of a Hackney Carriage Driver Licence. (AA)

Mr Wahid attended with a McKenzie Friend, from Malik & Co. Accountants. Whilst Respondent had some command of the English language, it was not felt appropriate to continue without an interpreter.

Decision

To defer the matter to 14 January 2019.

LACHP/18/123. Application for a New Hackney Carriage Driver Licence. (AH)

The Applicant attended unrepresented.

He had declared a caution for a s47 Assault which was domestic based in September 2016 hence the reason for his appearance before the committee.

He explained wife had chronic depression and prior to this she had taken to her bed and a situation had developed and escalated which resulted in the Applicant becoming frustrated with the situation and grabbing her wrists to get her out of bed. This resulted in scratches to her wrists caused by his nails.

He explained the police had become involved, he had been arrested and admitted the offence which resulted in him being cautioned. He demonstrated insight into his behaviour and apologised for his frustration getting the better of him.

The police contacted Social services and he and his wife worked with them for six months and they had now closed their file, there being no risk declared.

When questioned the Applicant was very open and explained his wife was still on antidepressant medication and he had learned alternative skills to deal with any issues that arose; they were still together and had two children aged 9 and 11 years.

When asked he disclosed that there had been a previous incident when his wife wanted to take the advice of a palmist who told her to leave the marriage despite the fact they had been married for twenty years. When the Applicant had challenged her regarding this, she called the police who attended and when they listened to both sides, no action was taken.

He went on to advise he had previously held a hackney Carriage Licence for over five years without incident and gave an example as to how he had dealt with the welfare of a drunken female to indicate and demonstrate that he could be trusted.

The Committee noted the demeanour of the Applicant and how he presented his explanation. He did not seek to minimise the circumstances and showed insight in to his behaviour. They deemed him honest in that he volunteered information regarding a previous incident which he could have concealed. He had undertaken work with Social Services and also had adequate experience previously with no complaint history.

The Committee had regard to the Statement of Policy and Guidelines in respect of 'offences against other persons' but utilised their discretion to depart from the guidelines in view of the above and also the fact the police had dealt with the complaint by way of non-prosecution disposal. The Committee deemed the Applicant to be a fit and proper person and granted the Application.

Decision

To grant the application.

LACHP/18/124. Application for a Review of a Hackney Carriage Driver Licence. (AR)

The Respondent attended unrepresented.

The Licensing Unit outlined the allegations made against the Respondent and confirmed enquiries were still ongoing and a file of evidence was to be submitted to the Crown prosecution Service for a decision to be made as to whether a prosecution would be made.

The Respondent explained all of the allegations were false. He stated he had gone to Pakistan on the 3rd of September 2018 and returned on the 23rd of October 2018. He had taken a second wife over there which the Muslim religion permitted him to do. These allegations were made in retaliation to this by his wife in England.

The Respondent was questioned regarding a number of incidents involving violence towards family members and also his breach of a Forced Marriage Protection Order regarding one of his daughters.

The Respondent stated the respective son and daughter suffered with mental illness, the daughter having been hospitalised and were effectively unreliable and had made false allegations. He claimed not to have any knowledge of the Forced Marriage Protection Order which is why he had applied for a passport for his daughter and stated this was as a result of planned holiday to Spain.

He also confirmed the daughter who had made allegation was now in foster care at a location unknown to him as a result of the allegations made.

The Committee did not find the explanations by the Respondent to be credible; he was evasive regarding details of a key witness in one of the assaults and appeared to minimise matters and blame all allegations on the mental illness of all of the complainants. They also noted the dismissive demeanour of the respondent in relation to his explanation of the allegations.

The Committee noted the purpose of the legislation was to ensure the safety of the public and were not satisfied this could be upheld if the suspension was to be removed. They therefore confirmed the suspension was to remain in place until the outcome of the criminal investigation and any subsequent related criminal proceedings were concluded.

Decision

To continue the suspension of the licence pending the outcome of the criminal investigation and any subsequent legal proceedings.