1. **APPOINTMENT OF CHAIRMAN**

**RESOLVED:**

That Councillor Anna Sauntson be appointed Chairman for this Hearing.

2. **MINUTES**

The minutes of the meeting of the Licensing (Taxi and Miscellaneous) Panel held on 10 August 2010 were approved and signed by the Chairman.

3. **EXCLUSION OF PUBLIC AND PRESS**

**RESOLVED:**

That the public and press be excluded from the meeting during consideration of the following items of business because exempt information, as defined under Paragraphs 1 and 7 of Schedule 12A of the Local Government Act 1972, may be disclosed.

4. **APPLICATIONS FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER’S LICENCES**

The Licensing Officer reported on two applications for Hackney Carriage and Private Hire Driver’s Licences under the Town Police Clauses Act 1847 (as amended) and the Local Government (Miscellaneous Provisions) Act 1976.

Reference was made to the Council’s Hackney Carriage and Private Hire Driver’s Criminal Records Policy when considering these applications.

**(i) Applicant One**

The applicant attended the Hearing and the Criminal Records Bureau (CRB) disclosure revealed that he had received convictions for the following two offences on 17 October 2007:

**(a)** Driving otherwise than in accordance with a Licence on 4 May 2007. No separate penalty. Driving Licence was endorsed.
(b) Driving a motor vehicle with excess alcohol on 4 May 2007. Disqualified from driving for 16 months and was fined £150 with £60 costs. Driving Licence was endorsed.

The Panel noted that the applicant had failed to disclose the two convictions received in October 2007 under Question 8 on his application form.

The applicant spoke in support of his application explaining the circumstances of the offences to the Panel and stated that:

- He had admitted the two offences at Court which had been his only offences since living in England and he had not re-offended since 2007
- He apologised for not disclosing the convictions received in 2007 and was unsure whether or not he had to disclose them
- He was currently working in a restaurant and had been offered a driver's job at a taxi firm in Rushden
- He had passed his UK driving test in May 2009.

After considering the Officer’s report and representations made by the applicant, including advice from the Solicitor, the Panel retired to consider the application and evidence presented at the Hearing, and it was

RESOLVED:

That the application for a Hackney Carriage and Private Hire Driver’s Licence be refused for the reasons stated below.

The Chairman read out the following statement giving the reasons why the Panel had refused the application:

“The Panel has considered at some length your application and has decided not to grant your application for a Hackney Carriage and Private Hire Driver’s Licence.

The reasons for refusing your application are as follows:-


2. We considered the two convictions as revealed by the CRB check and were very concerned about both the convictions.

3. We were also particularly concerned that you had not declared these convictions in question 8 of your application form which clearly states ‘Please give details of all convictions and cautions, no matter how old they are. If necessary, use a separate piece of paper’. Upon questions from the Panel whilst you answered the questions you still failed to fully convince the Panel your reasons for the omission. In particular, the Panel had regard to the above policy, at paragraph 4.2.1 where the Panel is entitled to take into account:

A serious view will be taken of convictions of driving or being in charge of a vehicle whilst unfit due to drink or drugs. A conviction for these offences will raise serious doubts as to the applicant’s suitability to hold a Licence. A period of three years (after restoration of the driving licence) would be required before a Licence application is considered.
The Panel did not find there to be any exceptional circumstances in your application that would have justified deviating from this policy.

Also at Paragraph 4.5.2 of the said Policy

*For these reasons a serious view will be taken of any conviction involving dishonesty (in this case, driving without a licence). Normally a period of three to five years free of convictions will be required before entertaining an application.*

The Panel did not find there to be any exceptional circumstances in your application that would have justified deviating from this policy.

4. The Panel have strict guidance and the East Northamptonshire Council Hackney Carriage and Private Hire Drivers Criminal Records Policy – Version 6 dated 14 April 2010 is quite clear that when considering convictions they are never spent for Hackney Carriage and Private Hire Drivers’ Licence. A Hackney Carriage and Taxi Drivers’ position is one of trust and honesty. The Licensing Authority’s key objective is ensuring public safety and protection from criminal activity.

5. It is our decision therefore, in the light of the Council’s policy and the general legislation, and the fact that you did not reveal these convictions, that your application be denied.

The Decision Notice would be sent to the applicant and he had the right of appeal to the Magistrates Court within 21 days of receiving the Notice if he was aggrieved with the Panel’s decision."

(ii) Applicant Two

The applicant attended the Hearing and the Criminal Records Bureau (CRB) disclosure revealed that he had received two convictions and a caution for offences on the following dates:

(a) 12 December 1988:

- Indecent exposure. No date given. Received a Probation Order for 6 months
- Indecent exposure. No date given. Received a Probation Order for 6 months concurrent
- Indecent exposure. No date given. Received a Probation Order for 6 months concurrent.

(b) 24 June 1998 - Common assault. No date given. Received a conditional discharge for 12 months with costs of £175.

(c) 22 September 2006 - Destroyed or damaged property. The value of the damage was £5,000 or less for which he received a Caution.

The Panel noted that the applicant had failed to disclose the caution received in September 2006 under Question 6 on his application form.

The applicant spoke in support of his application explaining the circumstances of the offences to the Panel and stated that:

- The offences in December 1988 had occurred whilst he was under the influence of alcohol and going through a difficult period in his life
The offence in June 1998 had occurred when some teenagers were throwing stones at his property. He had gone outside to tell them off and had grabbed one of them.

The offence in September 2006 had occurred when he was having an argument with an ex-partner and had damaged the front door of a property.

His application form had been completed by a relative on his behalf and he apologised to the Panel for not disclosing the caution.

He mentioned that he had also received two speeding offences in 2005 and 2006.

He was currently working full time as a driver/warehouseman and had been offered a part-time drivers job at a taxi firm in Rushden.

A relative of the applicant was also present and spoke in support of the applicant. She had known him for thirteen years and that he had now settled down and was a reformed person.

The applicant also submitted a character reference from his present employer.

After considering the Officer’s report and representations made by the applicant and relative, including advice from the Solicitor, the Panel retired to consider the application and evidence presented at the Hearing, and it was

RESOLVED:

That the application for a Hackney Carriage and Private Hire Driver’s Licence be refused for the reasons stated below.

The Chairman read out the following statement giving the reasons why the Panel had refused the application:

“The Panel has considered at some length your application and has decided not to grant your application for a Hackney Carriage and Private Hire Driver’s Licence.

The reasons for refusing your application are as follows:


2. We considered the convictions as revealed by the CRB check and were very concerned about these.

3. The Panel had reference to the Council’s policy and in particular to Paragraph 4.3.1.

   As Hackney Carriage and Private Hire Vehicle Drivers often carry unaccompanied passengers, applicants with convictions for sexual offences will normally be refused.

   The Panel was concerned that there were 3 separate offences involving indecent exposure which took place in a public place, including a park, and that alcohol was an influence in your behaviour. The Panel did have regard to the date when the convictions took place, but were still concerned about these convictions. The Panel did not find there to be any exceptional circumstances in your evidence to the Panel that would have justified deviating from this policy.

   And also Paragraphs 4.4.1 and 4.4.2 of the said Policy:
4.4.1 As Hackney Carriage and Private Hire Vehicles drivers maintain close contact with the public, a firm line will be taken with applicants who have convictions for violent or abusive offences. This category includes public order offences and criminal damage.

Beyond explaining that the incidents of criminal damage took place during the course of a domestic dispute, the applicant did not give any evidence that persuaded the Panel that this conduct should be disregarded.

4.4.2 At least 5 years free of such convictions will normally be necessary before an application is entertained and even then a strict warning as to future conduct will be given.

The Panel did not find there to be any exceptional circumstances in your evidence to the Panel, that would have justified deviating from this policy.

4. We were also particularly concerned that you had omitted to declare the caution received on 22 September 2006 in question 6 of your application form which clearly states “Have you ever received a caution?” Upon questions from the Panel whilst you answered the questions, you still failed to fully convince the Panel your reasons for this omission.

5. The Panel did have reference to the written reference provided by your employer and to the evidence given orally by a relative in support of your application. However, the Panel did not conclude that this evidence was sufficient to override the Panels findings mentioned above.

6. The Panel have strict guidance and the East Northamptonshire Council Hackney Carriage and Private Hire Drivers Criminal Records Policy – Version 6 dated 14 April 2010 is quite clear that when considering convictions they are never spent for Hackney Carriage and Private Hire Drivers’ Licence. A Hackney Carriage and Taxi Drivers’ position is one of trust and honesty. The Licensing Authority’s key objective is ensuring public safety and protection from criminal activity.

7. It is our decision, in the light of the Council’s policy and general legislation and the fact that you did not reveal this caution, that your application be denied.

The Decision Notice would be sent to the applicant and he had the right of appeal to the Magistrates Court within 21 days of receiving the Notice if he was aggrieved with the Panel’s decision.

Chairman