

# TAXI PANEL

**Date:** 9 April 2009

**Venue:** East Northamptonshire House, Cedar Drive, Thrapston

**Time:** 10:00 am

**Present:** Councillors: -

Andy Mercer  
Sarah Peacock

Anna Sauntson (Chairman)

## **PART A ITEMS**

### **1. APPOINTMENT OF CHAIRMAN**

#### **RESOLVED:**

That Councillor Anna Sauntson be appointed Chairman for this Hearing.

### **2. DECLARATIONS OF INTEREST**

The Solicitor to the Council declared a personal interest in Agenda Item 5 below because he may have been a passenger in a taxi driven by the applicant on three or four occasions, approximately two or three years ago.

The Panel agreed that the Solicitor to the Council could remain and take part in the meeting.

### **3. MINUTES**

The minutes of the meeting held on 12 March 2009 were approved and signed by the Chairman.

### **4. EXCLUSION OF PUBLIC AND PRESS**

#### **RESOLVED:**

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

### **5. APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE**

The Licensing Officer reported on an application for a Hackney Carriage and Private Hire Driver's Licence under the Town Police Clauses Act 1847 (as amended) and the Local Government (Miscellaneous Provisions) Act 1976.

A Criminal Records Bureau disclosure dated 19 March 2009 revealed that the applicant had been convicted on:

- (a) 13 May 1999 of a course of conduct amounting to harassment and had been given a Conditional Discharge of 12 months with costs of £45;
- (b) 9 December 1999 of a course of conduct amounting to harassment and had been given a Probation Order for 12 months;
- (c) 20 April 2000 of a breach of the Probation Order and had been fined £40; and
- (d) 28 September 2006 of making a false statement or representation in order to obtain benefit or payment on:

25 January 2005 - given a conditional discharge of 12 months and ordered to pay £100 compensation

21 March and 11 May 2005 - given a conditional discharge on both counts.

The Panel noted that the applicant had:

- held a Hackney Carriage and Private Hire Driver's Licence, issued by East Northamptonshire Council, from 25 August 2005 to 27 December 2008
- his application to renew the Licence refused and revoked at a previous Taxi Panel Hearing on 23 October 2008
- appealed to the Magistrates' Court against the Panel's decision to refuse to renew the Licence and that this decision had been upheld. A summary of the Court's decision, prepared by Counsel who represented the Council at the appeal, was submitted for the Panel's information
- nine penalty points on his Road Traffic Act Driver's Licence for speeding offences.

The Solicitor to the Council advised that details of the Court's decision had been supplied to the Panel because it contained information which was considered relevant to the current application. He also advised that the Panel would need to consider all relevant information and evidence presented to it at this Hearing and conclude whether the applicant was a fit and proper person to hold a Hackney Carriage and Private Hire Driver's Licence.

The applicant spoke in support of his application, gave details about the information provided by the CRB disclosure and answered questions from the Panel about the circumstances of the convictions and speeding offences.

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

**RESOLVED:**

That the application for a Hackney Carriage and Private Hire Driver's Licence be refused.

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

“The Panel had reference to the Government’s Guidance when making its decision. In particular the Panel had reference to the extracts from the guidance contained in the report presented to it.

We considered the convictions as revealed by the Criminal Records Bureau check and were particularly concerned about the convictions for :-

- a) Speeding Offences – 3 speeding offences were notified to the Panel which have points currently endorsed on your driving licence. The Panel asked you to give evidence concerning the circumstances of these offences. You informed the Panel that one of these speeding offences involved you driving a taxi, albeit without any passengers at that time. The Panel requires a high standard of compliance with road traffic laws to protect not only customers but other road users and we feel that this speeding offence, together with the two other speeding offences (in regard to which you said you were driving a sports car), did not demonstrate to the Panel that your compliance with road traffic regulations was adequate and therefore the Panel found that you were not a fit and proper person in this regard.
- b) Conviction for Benefit Fraud – we were notified of your three conditional discharges for fraud in 2005 and 2006. You addressed the Panel explaining the circumstances surrounding these offences and you submitted to the Panel a document which you explained was the submission that you placed before the Court regarding your mitigation in regard to those matters. The Panel had careful reference to the points contained in that document but conclude that the fact that the offences were committed still give rise for concern and they had particular regard to the fact that the Government Guidance is quite clear that when considering convictions for fraud, a serious view should be taken and in general, a period of three to five years free of convictions should be required before the Council should consider an application.
- c) The Panel was notified of the Conditional Discharge, Probation Order and breach of that Probation Order, arising from the issues of harassment. You explained to the Panel the circumstances relating to the harassment and you explained that this arose from the breakdown of a long term relationship. Although this issue caused the least amount of concern out of the evidence that was presented, nevertheless the Panel did have some concern, albeit that the incident ended in 2000. It was noted that there was a period of between a year and 18 months between the date of your conviction for your harassment and the date when you breached your Probation Order, demonstrating that the harassment continued for a sustained period.

The Panel considered the issue regarding the completion of your application form when you previously applied for a Licence to drive taxis which contained incorrect information. (It is an offence to fail to make a full disclosure of relevant information on an application for a Taxi Licence). The Panel had regard to the findings of the previous Panel hearing and of the findings of the Magistrates at the subsequent Appeal Hearing (which were contained within the report to the Panel). The Panel felt that this issue was relevant to the consideration of your fitness. The Panel finds that although this issue, if it had been the only factor, would not have lead to a finding that you were unfit to hold a Taxi Licence, the Panel does believe it is relevant when considering your application together with the other issues. The Panel accept that your current application form was correctly completed.

It is our decision, therefore, in the light of the Government Guidance and the issues contained in paragraphs 2 and 3 above, that your application be denied on the basis that

we did not find you to be a fit and proper person to hold a Hackney Carriage and Private Hire Driver's Licence.

The Panel wishes to advise you that if you are aggrieved by the Panel's decision, you have the right to appeal to the Magistrates Court within 21 days."

**Chairman**

# TAXI PANEL

**Date:** 15 June 2009

**Venue:** East Northamptonshire House, Cedar Drive, Thrapston

**Time:** 9:00am

**Present:** Councillors: -

Gill Mercer  
Brian Northall

Anna Sauntson (Chairman)

## **PART A ITEMS**

### **1. APPOINTMENT OF CHAIRMAN**

#### **RESOLVED:**

That Councillor Anna Sauntson be appointed Chairman for this Hearing.

### **2. DECLARATIONS OF INTEREST**

No interests were declared.

### **3. MINUTES**

The minutes of the meeting held on 24 April 2009 were approved and signed by the Chairman.

### **4. 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.

### **5. APPLICATIONS FOR THE RENEWAL OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCES**

The Licensing Officer reported on three applications for the renewal of 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.

#### **(a) Applicant One**

The Panel was informed that the applicant was not present for the Hearing. Consideration of

the application had been deferred from the Taxi Panel Hearing on 24 April 2009 because the applicant had been unable to attend owing to prior work commitments.

After receiving advice from the Solicitor to the Council, the Panel agreed that they should consider the application in the absence of the applicant.

The applicant had held a Hackney Carriage and Private Hire Driver Licence since 19 January 2001.

A Criminal Records Bureau (CRB) check revealed that the applicant had received a formal caution on 7 May 2005 for the offence of assault occasioning actual bodily harm on 6 May 2005. The applicant had also received a Fixed Penalty Notice of three points on her DVLA Licence in October 2007.

After considering the Licensing Officer's report and advice from the Solicitor to the Council, the Panel retired to consider the application and evidence presented at the Hearing, and it was

**RESOLVED:**

That the application for the renewal of a Hackney Carriage and Private Hire Driver's Licence be refused.

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

"The Panel had reference to the Governments Guidance when making its decision and had considered the convictions as revealed by the Criminal Records Bureau check.

In law, the applicant had to satisfy the Panel that she was a fit and proper person to hold the Licence. The applicant decided, as was her right, not to appear before the Panel. However, in the absence of the applicant, the Panel was unable to question the applicant on two important issues.

A conviction for speeding was revealed in 2006 and the Panel was not able to question the applicant on this. The Panel required a high standard of compliance with road traffic laws to protect not only customers but other road users. It was unable to ascertain whether the applicant was driving a taxi; the time of day; whether carrying passengers; weather conditions; what speed was involved and the location of the incident.

The application had also admitted a caution for actual bodily harm in 2005. The Panel was unable to ascertain details about this incident, including the seriousness of the assault; the other person or persons involved; and the circumstances giving rise to the assault.

Because she was not present, the Panel was unable to properly consider and determine the applicant's fitness to hold a Licence. Therefore, the Panel was not convinced that the applicant was a fit and proper person to hold the Licence applied for."

The Chairman also mentioned that the Panel's decision would be sent in writing to the applicant and that she had the right to appeal to the Magistrates Court within 21 days, if she wanted to appeal against the Panel's decision.

**(b) Applicant Two**

The Criminal Records Bureau (CRB) check revealed that the applicant had been:

- convicted on 17 July 1995 of burglary and theft from a non-dwelling and given a conditional discharge of 12 months with £100 costs;
- cautioned on 23 November 2001 for cultivation of cannabis; and
- cautioned on 7 May 2005 for the offence of destroying or damaging property at a value unknown.

The Panel noted that a short term Licence had been issued, enabling the applicant to continue to work until 15 June 2009.

The applicant spoke in support of his application, gave details about the information provided by the CRB disclosure and answered questions from the Panel about the circumstances of the conviction and cautions.

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

**RESOLVED:**

That the applicant's Hackney Carriage and Private Hire Driver's Licence be renewed for a temporary period of six months.

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

"The Panel had reference to the Governments Guidance when making its decision. In particular, the Panel had reference to the extracts from the guidance contained in the report and considered all the convictions/cautions revealed by the CRB check.

The Panel considered your application and decided to grant your application for a period of six months only from this date. The Panel came close to finding that you were not a fit and proper person to hold a Licence. Your recent speeding conviction whilst, by your own admission driving a taxi, together with your previous antecedents did cause the Panel concern. Your conviction in 1995, albeit some time ago, was felt to be still relevant having regard to your record since that time. The caution for cultivating cannabis in 2001, and your caution for criminal damage in 2005 were also considered by the Panel to be relevant in assessing your overall conduct.

The Panel required a high standard of compliance with road traffic laws to protect not only customers but other road users. Taxi driving is a profession where high standards of driving should be maintained at all times.

Therefore, the Panel is giving you a final warning as to your future conduct and will require any future misconduct to be referred to it for consideration as to whether you continue to hold a Licence."

The Chairman also mentioned that the Panel's decision would be sent in writing to the applicant and that he had the right to appeal to the Magistrates Court within 21 days, if he wanted to appeal against the Panel's decision.

**(c) Applicant Three**

The Criminal Records Bureau (CRB) check revealed that the applicant had received a

caution on 31 December 2004 for the offence of common assault.

The Panel noted that a short term Licence had been issued, enabling the applicant to continue to work until 26 July 2009.

The applicant spoke in support of her application, gave details about the information provided by the CRB disclosure and answered questions from the Panel about the circumstances of the caution.

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

**RESOLVED:**

That the applicant's Hackney Carriage and Private Hire Driver's Licence be renewed for a period of two years with standard conditions.

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

"The Panel had reference to the Government Guidance when making its decision and considered the caution revealed by the Criminal Records Bureau check.

We considered that your explanation of the caution in 2004 and your present circumstances did not cause the Panel sufficient concern and convinced us that you would be a fit and proper person to hold a Licence. Your Licence would be renewed for a period of two years from 26 July 2009."

The Chairman also mentioned that the Panel's decision would be sent in writing to the applicant and that she had the right to appeal to the Magistrates Court within 21 days, if she wanted to appeal against the Panel's decision.

**Chairman**