

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 9 December 2014

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10am

Present: Councillors: -

Tony Boto
Pauline Bradberry JP

Glennil Greenwood-Smith

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Glennil Greenwood-Smith be appointed Chairman for the Hearing.

2. DECLARATIONS OF INTEREST

No declarations of interest were noted.

3. 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.

4. TO REVIEW A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE

The Health Protection Manager (HPM) advised that the Licence Holder had been licensed since February 2011, a Private Hire Operator since July 2013 and had held a Private Hire Vehicle Licence with East Northamptonshire Council since January 2013.

A complaint had been received about the Licence Holder's behaviour, directly by a client, and via the Police, in February 2014. However, the allegations were unsubstantiated. A further complaint was then received from the Police in November 2014 and also a statement was received from a client of the Licence Holder. Written copies of the papers dated February 2014 were tabled by the HPM and copies were provided to the Panel and the Licence Holder. The Chairman adjourned the Panel briefly whilst the new papers were read.

The East Northamptonshire Licensing Policy for Hackney Carriage and Private Hire Drivers helps Councillors make decisions when considering drivers and operators licences. The Policy was provided at Appendix 3 to the papers.

The Private Hire and Hackney Carriage drivers licence required a review to determine whether the Licence Holder was a fit and proper person to hold such a Licence.

Following the presentation of the Report, the Panel provided the Licence Holder with the opportunity to ask any questions. The Licence Holder stated that he didn't know what to ask.

The Panel then provided the Licence Holder with the opportunity to explain events which had led to the review taking place.

The Licence Holder stated that he had been driving taxis for approximately 4 years. Since he had decided to work for himself and had made a success of the business, in his view, other taxi drivers were spreading rumours about his behaviour. He disagreed with the statement provided as he did not employ a driver named Gary, he could provide a booster seat where appropriate, he did not uncover his shoulder to show a tattoo to anyone, he always wore clothing with the company logo on and that he never drove unmarked cars. The Licence Holder also denied providing a phone card for a customer.

The Licence Holder believed he provided a good, safe service to members of the community. The Licence Holder advised that he decided to become self-employed after experiencing pressure whilst working for a local taxi company in Rushden.

When questioned about further allegations made about liaisons with members of the opposite sex, the Licence Holder denied all claims. The Licence Holder also advised that lately, he worked outside the Rushden area.

The Health Protection Manager confirmed that the "unmarked" car mentioned in allegations was registered as a taxi.

The Licensing Enforcement Officer confirmed that she considered that the person who had provided the statement for the Panel was a credible witness.

The Panel received legal advice in terms of:

- (a) The fitness test to be applied was on a balance of probability
- (b) Article I, Protocol I Human Rights Act 1998, whereby a Licence is a possession and any interference with this must be legitimate and proportionate

The Panel adjourned at 10.35am to make a decision and re-convened at 12.10pm to announce the decision.

RESOLVED:

The Panel has carefully considered the application by East Northamptonshire Council's Hackney Carriage and Taxi Licensing Section for the review of a Hackney Carriage and Private Hire Driver Licence, as to whether the driver remains a fit and proper person to hold such a licence.

In reaching its decision, the Panel had regard to:

- Government Guidance
- ENC Licensing Policy for Hackney Carriage and Private Hire Drivers
- ENC Hackney Carriages/Byelaws (Terms and Conditions)
- Verbal evidence given by the applicant
- The statement of Rita Groves dated 27 November 2014
- The Police Intelligence Report of PC Congreve
- e-mail communications dated 13 February 2014
- e-mail communications dated 18 February 2014

The decision of the panel is governed by Section 61 Local Government Miscellaneous Provisions Act 1976

The Panel is therefore deciding the fitness of the Licence Holder under Section 61 (1) (b) of the above legislation

The Panel considered the representations of the Licence Holder, and the panel noted the content of the Police Intelligence Report, the statement of Rita Groves relating to a complainant. The e-mails dated 13 February 2014 and 18 February 2014

The panel heard oral representations made by the Licence Holder that all the allegations within the statement of Rita Groves were denied in its entirety save that the Licence Holder did send a text message to the complainant “was this meant for me?”

The Licence Holder denies having an affair with any fare paying passenger

The Licence Holder denies that he is predatory against female customers

The Licence Holder accepted that he did offer to take the complainant for a drink but stated that this was a joke

The Licence Holder denied pulling his shirt over his head as stated in the statement of Rita Groves relating to the Complainant but states he did show a photograph of his tattoo on his mobile phone

The Licence Holder denied posting a phone card through the letter box of the Complainant

The panel noted that the Licence Holder is of the view that there is vendetta against him ever since he started his own taxi business

The panel have decided that they do accept the police intelligence report relating to the Licence Holder

The panel also accept the statement of Rita Groves relating to the Complainant where Rita Groves stated that the Complainant came across as a credible witness when questioned about the incidents on 16 November 2014 and 18 November 2014

The Panel also accept the content of the emails received by the Licensing Officers dated 13 and 18 February 2014

The Panel has therefore reached the decision that on a balance of probability the Licence Holder is not a fit and proper person to continue being licensed as a private hire/hackney carriage driver

The Panel has therefore decided to suspend the Hackney Carriage and Private Drivers Licence of the Licence Holder for 6 months

The Panel have also decided that the suspension of the licence will have immediate effect as it is in the public interest to do so given the nature of the allegations against him

The Decision Notice has been handed to the Licence Holder. If aggrieved with the Panel's decision, the Licence Holder and any Party that has made representation has the Right to Appeal to the Magistrates Court within 21 days of the Decision.

Chairman

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 9 December 2014

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 2pm

Present: Councillors: -

Richard Gell
Roger Glithero JP

Barbara Jenney

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Barbara Jenney be appointed Chairman for the Hearing.

2. DECLARATIONS OF INTEREST

No declarations of interest were noted.

3. 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.

4. CONSIDERATION OF A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE

The Licensing Enforcement Officer reported on an application, received on 14 October 2014, 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. Reference was made to the Council's Hackney Carriage and Private Hire Drivers Criminal Records Policy when considering the application.

The Applicant had made reference on the application form at question 8 to a driving conviction of a driving ban and 6 points on his licence. The Hearing Panel had a copy of the Application.

The DBS document had also revealed that on 24 November 2005 at Luton and South Bedfordshire Magistrates Court, the Applicant was convicted of:

1. Using a Vehicle while Uninsured on 6 October 2005 under Road Traffic Act 1988 S. 143(2). Disposal: Conditional Discharge for 6 months Driving Licence Endorsed with 6 Penalty Points.

2. Driving whilst Disqualified on 6 October 2005 under Road Traffic Act 1988 S. 103(1)(B). Disposal: Conditional Discharge 6 months Driving Licence Endorsed with 6 Penalty Points.

The East Northamptonshire Licensing Policy for Hackney Carriage and Private Hire Drivers states that for the purposes of licensing drivers there is no such thing as a spent conviction. The Licensing Authority will consider all convictions. Cautions will be treated as convictions for the purposes of this policy as they are admissions of guilt of an offence. Convictions with regard to invalid or no insurance would always be relevant and all applications would be determined by the Licensing Panel. The Policy was attached at Appendix 1 of the committee papers.

The Applicant was given an opportunity to respond. He explained that he had built up an amount of points on his licence and was again caught driving over the limit by a speed camera. He heard nothing, but was then advised, incorrectly, that if the authorities did not get in touch then no action would be taken. During the period in question the Applicant had gone to live in Spain. He had returned after 2 months and was stopped again by the Police. He discovered that he had been disqualified from driving during his absence, and consequently was driving an uninsured car. Unfortunately all correspondence relating to the speeding charge had been sent to the wrong address and therefore the applicant had had no knowledge of the disqualification.

Following questions from the Panel, the Applicant advised that he realised it was a foolish error and realised his mistakes. He confirmed that he was currently in employment and had applied for the Licence to work for a local company who had asked for help and to earn extra money for his family.

The Panel adjourned at 2.15pm to make a decision and re-convened at 2.45pm to announce the decision.

RESOLVED:

The Panel has carefully considered your application for the issue of a Hackney Carriage and Private Hire Drivers Licence. In reaching its decision, the Panel had regard to:

- Government Guidance
- ENC Licensing Policy for Hackney Carriage and Private Hire Drivers
- ENC Hackney Carriages/Byelaws (Terms and Conditions)
- Rehabilitation Of Offenders Act 1974
- Rehabilitation Of Offenders Act 1974 (exceptions) (amendment) Order 2002.
- The application form submitted to East Northamptonshire Council by the applicant for a Hackney Carriage and Private Hire Drivers Licence dated 14 October 2014.

- Verbal evidence given by the Applicant
- Enhanced DBS Report

The Panel considered the offences which were declared on the Applicants application form and the enhanced DBS Report.

The offence declared at question 5 by the applicant confirmed he had received 3 penalty points.

The offence declared at question 8 by the applicant confirmed that in 2005 his licence had been suspended for 6 months and had 6 points on his licence.

The Panel were able to question the applicant about the circumstances of these offences and were grateful for the Applicant's candid answers

The Panel decided that the offences were sufficiently dated that they no longer carried great weight.

In reaching its decision the Panel gave serious consideration to the offences that resulted in the Applicants licence being suspended in 2005, but on the balance of probability the Panel unanimously decided that the Applicant was a fit and proper person to be licenced to drive a Hackney Carriage/Private Hire vehicle.

The Decision Notice will be sent out in writing. If aggrieved with the Panel's decision, the Applicant and any Party that has made representation has the Right to Appeal to the Magistrates Court within 21 days of the Decision Notification letter.

Chairman