

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 29 September 2010

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 9:30am

Present: Councillors: -

Richard Gell
Brian Northall (Chairman)

Robin Underwood

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Brian Northall be appointed Chairman for this Hearing.

2. MINUTES

The minutes of the meeting of the Licensing (Taxi and Miscellaneous) Panel held on 6 September 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 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. 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 a number of convictions for various offences on the following dates:

- (a) 3 July 1990
- Burglary and theft – non - dwelling on – no date given. Supervision order. 12 months concurrent.
 - Burglary with intent to steal – non – dwelling – no date given. Supervision order. 12 months concurrent.
 - Theft – no date given Supervision order. 12 months concurrent.
 - Burglary and theft non – dwelling – no date given. Supervision order 12 months.
 - Burglary and theft – non – dwelling – no date given. Supervision order. 12 months concurrent.
 - Burglary and theft – non – dwelling – no date given. Supervision order 12 months concurrent.
- (b) 5 August 1994 - Attempted robbery – no date given. Imprisoned for 21 months.
- (c) 15 June 2000
- Using vehicle while uninsured – no date given. Fined £145.00. Driving licence endorsed.
 - Destroy or damage property or damage property at a value unknown – no date given. Conditional discharge 18 months. Compensation £100.00. Costs £50.00

The Panel noted that the applicant had only answered attempted robbery in 1994 under Question 8 on his application form.

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

- The offences in July 1990 had occurred whilst he was young and living in care. He had not included these offences under question 8 because he thought that, because these had occurred when he was a juvenile, he did not have to declare them
- The offences in June 2000 had occurred because he had swapped his car with his friend's car and was not insured to drive it. He had damaged this car when he realised it was defective and his friend then took him to Court for an insurance claim. He apologised for not declaring these offences under question 8.
- He had learnt from his past mistakes and considered that he was now a better person.
- He had had an LGV Licence for 6 years and wished to become a taxi driver because it would be a more flexible job and enable him to see more of this family.

The Panel asked the applicant a number of questions and 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:

1. Had reference to the East Northamptonshire Council Hackney Carriage and Private Hire Drivers Criminal Records Policy – Version 6 dated 14 April 2010 when making

its decision.

2. Considered the various convictions revealed by the CRB check. It was particularly concerned about the convictions for attempted robbery, criminal damage and driving whilst uninsured.
3. Was also particularly concerned that the applicant had only declared one conviction in question 8 of his application form which clearly stated "Please give details of all convictions and cautions, no matter how old they are. If necessary, use a separate piece of paper". The applicant answered the questions from the Panel but failed to fully convince it about his reasons for the omission. In particular, the Panel had regard to the above Policy, at paragraph 4.6.5 where the Panel was entitled to take into account information provided to it by officers (in this case, the failure to disclose the criminal record), coupled with the general thrust of the section of the above Policy dealing with dishonesty (section 4.5) (although the Panel appreciated that this section of the Policy referred specifically to offences relating to dishonesty). The Panel also took into account section 4.4.1 which guided the Panel to be mindful of offences such as criminal damage.
4. Had concerns about how the applicant might react to fare paying members of the public having regard to the admission he made about the violent reaction resulting in criminal damage to a motor vehicle when the applicant discovered that he had acquired a defective vehicle.
5. Listened carefully to the applicant's explanation for the earlier offences, but was not fully convinced by his explanation for the serious offences committed some 10 years ago, additionally as a further offence 16 years ago resulted in a Crown Court appearance, conviction and imprisonment.
6. Appreciated the earlier circumstances and the present circumstances the applicant now found himself in and had sympathy for that situation. The Panel had strict guidance and the East Northamptonshire Council Hackney Carriage and Private Hire Drivers Criminal Records Policy – Version 6 dated 14 April 2010 was quite clear that when considering convictions they were never spent for Hackney Carriage and Private Hire Drivers' Licences. A Hackney Carriage and Taxi Drivers' position was one of trust and honesty. The Licensing Authority's key objective was ensuring public safety and protection from criminal activity.
7. Considered that in the light of the Council's policy, the general legislation and the fact that the applicant did not reveal these convictions, the application should 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 Licensing Officer reported that it had not been possible to contact the applicant about his attendance at this Hearing and it was agreed that the application be considered at another Hearing.

Chairman

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 16 July 2010

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 9:30am

Present: Councillors: -

Richard Gell
Peter MacGovern

Brian Northall (Chairman)

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Brian Northall be appointed Chairman for this Hearing.

2. MINUTES

The minutes of the meetings of the Licensing (Taxi and Miscellaneous) Panel held on 27 November 2009 and 29 June 2010 were approved and signed by the Chairman.

3. DECLARATIONS OF INTEREST

No interests were declared.

4. APPLICATION FOR A HOUSE TO HOUSE COLLECTION LICENCE

The Panel considered an application for a House to House Collection Licence made under the House to House Collections Act 1939, from Mr Benediktas Bockus representing SOS Support Ltd, Nottingham, to hold house to house collections in the District from 19 to 31 July and from 6 to 18 September 2010.

The applicant was not present at the Hearing but the Panel agreed that it should consider the application in his absence. The Panel was informed that the applicant had failed to respond to requests from Officers for further information and to confirm if he would be attending the Hearing.

The application stated that an amount from the proceeds of the collections would be donated to Children's Hearts a UK Registered Charity based in Surrey. It was not clear from the application how much money would be donated to the charity. A letter had been sent to the applicant on 22 June 2010 requesting further financial information and to date no reply had been received.

The Panel noted that:

- the application, dated 16 June 2010, had been received by the Council on 4 June 2010
- Gosport Borough Council had refused an application for a Licence from the

- applicant on 11 May 2010
- an Officer from the Council had received a leaflet at his property in Thrapston on 8 July from the applicant's company on behalf of Children's Hearts for a collection in the District which had not been licensed.

After considering the Officer's report, 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 application from Mr B Bockus on behalf of SOS Support Limited for a House to House Collection Licence be refused.

The Chairman read out the following statement giving the reasons why the Panel had refused to grant the Licence: -

"The Panel had reference to the House to House Collections Act 1939 together with the House to House Collection Regulations 1947 (SR&O 1947 No 2662, as amended by Statutory Instrument 1963 No 684), when it reached the following decision:

1. The Applicant chose not attend the Hearing and did not responded to letters and telephone calls requesting additional and relevant information. Therefore, the Panel was not given the opportunity to ask relevant questions.

Without that information the Panel believed the applicant had failed to meet the requirements of Section 2 (3) (f) of the House to House Collection Act 1939 which states that "*The applicant or holder of the Licence has refused or neglected to furnish to the authority such information as they may have reasonably required for the purpose of informing themselves as to any of the matters specified in the foregoing paragraphs*".

In reaching the decision to refuse the Licence, the Panel considered that it needed the following information:-

1. Evidence of the total amount likely to be applied for charitable purposes as the result of the collection (including any amount already applied) as it could be inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received).

Additional Comments and Observations made by the Panel (not material to the decision to refuse):

1. The Panel also had concerns that the applicant had answered "No" to question 15 on the application form which asked "*has the applicant, or to the knowledge of the applicant, anyone associated with the promotion of the collection, been refused a licence or order under the Act, or had a licence or order revoked?*" The Licensing Officer had advised the Panel that Gosport Borough Council had refused an application for a Licence from the applicant on 11 May 2010.
2. The application had been submitted to the Council on 4 June 2010 but was dated 16 June 2010 by the applicant. Therefore, the Gosport Borough Council refusal should have been declared under question 15 on the application, where the applicant had answered no.

3. The Panel was very concerned that a member of the Council's staff had reported that SOS Support Limited was distributing leaflets on behalf of the Children's Hearts charity within the District.

That action contravened Section 1(2) of the Act which stated that it was an offence to promote and make a house to house collection for a charitable purpose without a Licence authorising you to do so in that location from the licensing authority.

The Panel considered that this demonstrated an unacceptable disregard for the process of licensing and the Act itself."

The Chairman mentioned that the applicant would be advised that, if he was aggrieved with the decision, he had the right to appeal to the Secretary of State within 14 days from the date on which the Notice was given.

Chairman

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 10 August 2010

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 2:00pm

Present: Councillors: -

Richard Gell
Glenn Harwood (Chairman)

Anna Sauntson

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Glenn Harwood be appointed Chairman for this Hearing.

2. DECLARATIONS OF INTEREST

No interests were declared.

3. APPLICATION FOR A HOUSE TO HOUSE COLLECTION LICENCE

The Licensing Officer reported that an application for a House to House Collection Licence had been made by Mr Galib Mujic, of Global Recycling Aid Ltd, Corby, to hold house to house collections in the District from July until December 2010.

The applicant had been informed of the Hearing but was not present and the Panel agreed that it should consider the application in his absence.

The Panel noted that:

- the averaged price for recycled clothing in the UK was currently £750 per tonne and that the applicant was proposing to donate £30 per tonne to the nominated charity Hope for Children, a UK Registered Charity based in Hemel Hempstead
- a letter had been sent to the applicant on 14 June 2010 requesting further financial information and to date no reply had been received
- the applicant had submitted applications for House to House Collection Licences to other Local Authorities in the UK but no decision had been taken yet to grant or refuse any of these applications.

After considering the Officer's report, 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 application from Mr Galib Mujic on behalf of Global Recycling Aid Ltd for a House to House Collection Licence be refused.

The Chairman read out the following statement giving the reasons why the Panel had refused to grant the Licence: -

“The Panel had reference to the House to House Collections Act 1939 together with the House to House Collection Regulations 1947 (SR&O 1947 No 2662, as amended by Statutory Instrument 1963 No 684), when it reached the following decision:

1. The Applicant chose not to attend the Hearing and had not responded to a letter, sent from the Council, dated 14 June 2010, which requested additional and relevant information. Consequently the Panel was not provided the opportunity to ask pertinent questions.

Without that requisite information the Panel believed the applicant had failed to meet the requirements of Section 2 (3) (f) of the House to House Collection Act 1939 which stated “*The applicant or holder of the Licence has refused or neglected to furnish to the authority such information as they may have reasonably required for the purpose of informing themselves as to any of the matters specified in the foregoing paragraphs*”.

In reaching the decision the Panel felt that it needed, at minimum, the following information: -

1. Evidence of the total amount likely to be applied for charitable purposes as the result of the collection (including any amount already applied) as it could be inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received). The Panel felt the nominal £30.00 suggested charitable donation per tonne to be wholly inadequate based on the current UK recycling market value of the collected material.”

The Chairman mentioned that the applicant would be advised that he had the right to appeal to the Secretary of State within 14 days from the date on which the Notice was given, if he was aggrieved with the decision.

Chairman

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 26 August 2010

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 9:30am

Present: Councillors: -

Gill Mercer
Brian Northall (Chairman)

Robin Underwood

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Northall be appointed Chairman for this Hearing.

2. MINUTES

The minutes of the meetings of the Licensing (Taxi and Miscellaneous) Panel held on 16 July 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 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. 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.

The applicant attended the Hearing and the Criminal Records Bureau (CRB) disclosure revealed that he had received a number of convictions from March 1982 to March 1998 for various offences including: taking a conveyance without authority; theft from a vehicle; driving whilst disqualified; driving a motor vehicle with excess alcohol; driving without due care and attention; driving without insurance and dangerous driving. He had been fined and disqualified for driving for some of these offences and also had his Driving Licence endorsed a number of times.

The Panel noted that the applicant had failed to disclose any of these convictions as required under Question 8 on his application form, but also noted that the applicant had partially answered Question 6, mentioning a drink driving offence in June 1997.

The applicant spoke in support of his application and explained the circumstances of the offences to the Panel. The earlier offences in 1982 and 1983 had occurred when he was young and the last convictions in 1998 had occurred when he was going through a difficult period in his life. He stated that he had:

- not realised that he had to list all his previous convictions on the application form and apologised to the Panel for this error
- contacted the CRB before submitting his application and understood that he only had to disclose convictions which had occurred during the last five years
- not re-offended since his last conviction in March 1998 and his Driving Licence had been clean for the last 8 years with no claims made on his car insurance
- worked as a floor coverings fitter for twenty years and wished to change his job for health reasons
- voluntarily left his previous job and was not currently working, although he could be re-employed by them again and submitted a character reference from his former employer
- learnt from his past mistakes and asked the Panel to grant him a Licence and allow him the opportunity to become a full time taxi driver.

The Chairman informed the applicant that he should have disclosed all his previous convictions, no matter how old, as clearly stated under Question 8 of the application form.

The Panel asked the applicant a number of questions and 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 to grant the application: -

"The Panel:

1. had reference to the East Northamptonshire Council Hackney Carriage and Private Hire Driver's Criminal Records Policy – Version 6 dated 14 April 2010 when making its decision.
2. considered the numerous convictions revealed by the CRB check and were particularly concerned about the convictions for dangerous driving, theft, dishonesty, driving without due care and attention, and driving with excess alcohol in his blood.
3. were also particularly concerned that the applicant had not answered Question 8 of his 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". When questioned by the Panel, the applicant failed to convince it about his reasons for the omission. In particular, the Panel had regard to paragraph 4.6.5 of the above Policy, where it was entitled to take into account information provided to the Panel by officers (in this case, the failure to disclose the criminal record), coupled with the general thrust of the section of the above Policy dealing with dishonesty (section 4.5) (although the Panel appreciated that this section of the Policy referred specifically to offences relating to dishonesty).

4. listened carefully to the applicant's explanation for the earlier offences, but the Panel were not convinced by his explanation for the serious offences committed some 15 years later, particular as one resulted in a Crown Court appearance and conviction.
5. noted that the Policy was quite clear that when considering convictions they were never spent for Hackney Carriage and Private Hire Driver's Licences. The Panel also noted the reference from his last employer, but considered that its overall concerns were not met by this reference. A Hackney Carriage and Taxi Drivers' position was one of trust and honesty and the Licensing Authority's key objective was ensuring public safety and protection from criminal activity.

Therefore, in the light of the Council's Policy, the general legislation and the fact that the applicant did not reveal these convictions, the Panel decided that the application should be refused.

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

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 6 September 2010

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 9:30am

Present: Councillors: -

Peter MacGovern
Brian Northall (Chairman)

Robin Underwood

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Brian Northall be appointed Chairman for this Hearing.

2. MINUTES

The minutes of the meeting of the Licensing (Taxi and Miscellaneous) Panel held on 26 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 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. 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.

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

(i) 7 August 1997 - Possession of Class 'B' Drug Cannabis Resin with Intent to Supply on 25 April 1997. Received a Community Service Order for 80 hours; Combination Order; and Probation Order for 12 months. With costs of £50.00 and forfeiture/confiscation and destruction of Cannabis.

(ii) 30 March 1998 - Breach of Combination Order on 20 February 1998. Resulting from original conviction of 7 August 1997.

(iii) 2 February 1999 - Attempted burglary and theft from a dwelling on 27 March 1998. Probation Order for 18 months, with costs of £100.00.

(iv) 12 April 1999:

(a) Failing to provide a specimen of breath on 2 January 1999. Probation Order for 18 months. Disqualification from driving for 18 months, with costs of £35.00. Driving Licence endorsed.

(b) Failing to stop when required on 2 January 1999. Probation Order for 18 months. Driving Licence endorsed with 3 penalty points.

(c) Failing to surrender to custody at appointed time on 22 February 1999. Probation Order for 18 months.

(v) 22 November 1999 - Breach of Probation Order on 2 February 1999. Fined £25.00 and Order to continue.

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

- The offences had occurred when he was in his early twenties after getting involved with an undesirable group of people
- In order to improve his life, he decided to move away from the area where he was born and as a result, had received no further convictions during the last ten years
- He had been unemployed since December 2009 and wanted a job to fit in with looking after his young daughter.

The Panel asked the applicant a number of questions and 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 granted for a period of 12 months for the reasons stated below.

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

"The Panel:

1. Had reference to the Hackney Carriage and Private Hire Drivers Criminal Record Policy 14 April 2010 when making its decision. The Panel noted the numerous offences disclosed by the CRB check that were 10 years old and whilst each was very serious in its own right, it considered the convictions were sufficiently dated and carried limited weight in the decision to grant the Licence (although they were relevant, as stated below, to the duration of the Licence).
2. Wished to remind the applicant that the position of a hackney carriage driver was one of great trust and responsibility to the public. The Panel considered that the offences between August 1997 and November 1999 were of a very serious nature, but the applicant's explanation of the offences had satisfied the Panel and that he had moved away from the area that caused his initial problems purposely to avoid further

offences. It noted that his present family situation required him to look after his 7 year old daughter and he had demonstrated his family commitments with consequent stability in his lifestyle. The Panel also noted the applicant's desire for a Licence to give him flexibility to maintain his commitment to his family. The Council's policy was to grant a Licence for 2 years but, in view of the previous offences, the Panel considered that one year was more appropriate in order that the position could be reviewed after 12 months.

3. Wished to emphasise that the safety of the public was paramount and warned the applicant that should he be convicted of any offence under the prescribed offences list of East Northamptonshire Council's Terms and Conditions for Hackney Carriage and Private Hire Drivers, his Licence could be revoked.
4. Wished to advise the applicant that his conduct should be exemplary whilst he held the Licence.

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

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 29 September 2010

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 9:30am

Present: Councillors: -

Richard Gell
Brian Northall (Chairman)

Robin Underwood

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Brian Northall be appointed Chairman for this Hearing.

2. MINUTES

The minutes of the meeting of the Licensing (Taxi and Miscellaneous) Panel held on 6 September 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 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. 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 a number of convictions for various offences on the following dates:

- (a) 3 July 1990
- Burglary and theft – non - dwelling on – no date given. Supervision order. 12 months concurrent.
 - Burglary with intent to steal – non – dwelling – no date given. Supervision order. 12 months concurrent.
 - Theft – no date given Supervision order. 12 months concurrent.
 - Burglary and theft non – dwelling – no date given. Supervision order 12 months.
 - Burglary and theft – non – dwelling – no date given. Supervision order. 12 months concurrent.
 - Burglary and theft – non – dwelling – no date given. Supervision order 12 months concurrent.
- (b) 5 August 1994 - Attempted robbery – no date given. Imprisoned for 21 months.
- (c) 15 June 2000
- Using vehicle while uninsured – no date given. Fined £145.00. Driving licence endorsed.
 - Destroy or damage property or damage property at a value unknown – no date given. Conditional discharge 18 months. Compensation £100.00. Costs £50.00

The Panel noted that the applicant had only answered attempted robbery in 1994 under Question 8 on his application form.

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

- The offences in July 1990 had occurred whilst he was young and living in care. He had not included these offences under question 8 because he thought that, because these had occurred when he was a juvenile, he did not have to declare them
- The offences in June 2000 had occurred because he had swapped his car with his friend's car and was not insured to drive it. He had damaged this car when he realised it was defective and his friend then took him to Court for an insurance claim. He apologised for not declaring these offences under question 8.
- He had learnt from his past mistakes and considered that he was now a better person.
- He had had an LGV Licence for 6 years and wished to become a taxi driver because it would be a more flexible job and enable him to see more of this family.

The Panel asked the applicant a number of questions and 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:

1. Had reference to the East Northamptonshire Council Hackney Carriage and Private Hire Drivers Criminal Records Policy – Version 6 dated 14 April 2010 when making

its decision.

2. Considered the various convictions revealed by the CRB check. It was particularly concerned about the convictions for attempted robbery, criminal damage and driving whilst uninsured.
3. Was also particularly concerned that the applicant had only declared one conviction in question 8 of his application form which clearly stated "Please give details of all convictions and cautions, no matter how old they are. If necessary, use a separate piece of paper". The applicant answered the questions from the Panel but failed to fully convince it about his reasons for the omission. In particular, the Panel had regard to the above Policy, at paragraph 4.6.5 where the Panel was entitled to take into account information provided to it by officers (in this case, the failure to disclose the criminal record), coupled with the general thrust of the section of the above Policy dealing with dishonesty (section 4.5) (although the Panel appreciated that this section of the Policy referred specifically to offences relating to dishonesty). The Panel also took into account section 4.4.1 which guided the Panel to be mindful of offences such as criminal damage.
4. Had concerns about how the applicant might react to fare paying members of the public having regard to the admission he made about the violent reaction resulting in criminal damage to a motor vehicle when the applicant discovered that he had acquired a defective vehicle.
5. Listened carefully to the applicant's explanation for the earlier offences, but was not fully convinced by his explanation for the serious offences committed some 10 years ago, additionally as a further offence 16 years ago resulted in a Crown Court appearance, conviction and imprisonment.
6. Appreciated the earlier circumstances and the present circumstances the applicant now found himself in and had sympathy for that situation. The Panel had strict guidance and the East Northamptonshire Council Hackney Carriage and Private Hire Drivers Criminal Records Policy – Version 6 dated 14 April 2010 was quite clear that when considering convictions they were never spent for Hackney Carriage and Private Hire Drivers' Licences. A Hackney Carriage and Taxi Drivers' position was one of trust and honesty. The Licensing Authority's key objective was ensuring public safety and protection from criminal activity.
7. Considered that in the light of the Council's policy, the general legislation and the fact that the applicant did not reveal these convictions, the application should 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 Licensing Officer reported that it had not been possible to contact the applicant about his attendance at this Hearing and it was agreed that the application be considered at another Hearing.

Chairman

LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 13 October 2010

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 9:30am

Present: Councillors: -

Glenn Harwood (Chairman)
Peter MacGovern

Brian Northall

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Glenn Harwood be appointed Chairman for this Hearing.

2. 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.

3. 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. Reference was made to the Council's Hackney Carriage and Private Hire Driver's Criminal Records Policy when considering this application.

The Criminal Records Bureau (CRB) disclosure revealed that the applicant had received a number of convictions for various offences on the following dates:

(i) 16 August 1998 - Assault occasioning actual bodily harm. Received a Caution.

(ii) 7 May 1999 - Destroy or damage to property at a value unknown. Received a Conditional Discharge of 12 months, with costs of £70.00 and compensation of £525.48.

(iii) 24 February 2008 - Possessing of Class A Drugs (Cocaine) on 23 February 2008. Received a Caution.

The Panel noted that the applicant had not included any convictions under Question 8 on his application form. The Chairman sought clarification on whether the caution declared under Question 6 was either a Class A or Class B drugs offence. The Licensing Officer confirmed

that the CRB disclosure had indicated that it was a Class A and not a Class B offence as declared by the applicant.

Six personal character references were submitted by the applicant and these were noted by the Panel. Two speeding offences declared by the applicant in 2003 and 2008 were also noted.

The applicant was present at the Hearing and spoke in support of his application. He explained the circumstances of the offences and stated that:

- He had forgotten about the earlier offences in 1998 and 1999 and apologised to the Panel for not declaring them under Question 8 on his application form. These offences had occurred over ten years ago when he was young. He had now matured and regarded himself as a more responsible person
- The offence in February 2008 had occurred when he was under a lot of stress because he was going through a divorce. He was unsure which class the offence was and had not declared it under Question 8 because he assumed that because it was a caution and not a conviction he did not have to declare it
- He had been employed in his current job over four years and referred the Panel to the submitted character references, including those from his current employer
- He was now married with a young family and wanted to start up a taxi business with his father who was also a taxi driver. They had previously run a newsagents business.

The applicant's father was also in attendance at the Hearing as a character witness and spoke in support of his son's application.

The Panel asked the applicant a number of questions about the offences. 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 granted for two years with standard conditions.

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

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

- Government Guidance
- East Northamptonshire Council's Hackney Carriage and Private Hire Driver's Criminal Records Policy; Hackney Carriages/Byelaws Terms and Conditions; and Private Hire Operator's/Driver's Private Hire Vehicles Terms and Conditions
- Various character references submitted to the Panel by the applicant.

The Panel has reached the decision to grant the Licence for a period of two years with standard conditions.

The Panel noted the applicant had declared a Caution at question 6 of the application form but had said the Caution was in respect of being in possession of Class B drugs. The CRB check showed Class A drugs had been involved. The Panel accepted the applicant's explanation for the error and also took into account the guidance given in paragraph 4.2.3 of

the Driver's Criminal Records Policy.

The applicant had also failed to answer Question 8 correctly, although by answering Question 6 it was clear he was not attempting to conceal any relevant information.

The Panel noted two offences in 1998 and 1999 had not been declared in the application form. The Panel accepted the applicant's explanation for that and also felt the offences were sufficiently dated not to be part of their considerations.

The Panel also noted that the applicant had two convictions for speeding, the most recent being only two years ago. The Panel wishes to emphasise the safety of the public is paramount and therefore strongly advises the applicant to avoid exceeding speed limits in the future as that could cause a review of the Licence which could result in the Licence being revoked.

The Panel thanks the applicant for being so candid when responding to the Panel's questions, but wishes to stress the importance it places on individuals who drive members of the public for a living being fully compliant at all times, with all aspects of the law.

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."

4. ITEM OF URGENT BUSINESS

The Chairman stated that the Panel had agreed to add the next application to the agenda as an item of urgent business because a decision on the application was required within the statutory period.

5. APPLICATION FOR THE RENEWAL OF A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE

The Licensing Officer reported on an application for the renewal of 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 Driver's Criminal Records Policy when considering this application.

The Criminal Records Bureau (CRB) disclosure revealed that the applicant had received a Caution for destroying or damaging a property at a value unknown on 13 May 2009.

The Panel noted that the applicant had not informed the Licensing Officer about the receipt of the Caution as required under the Council's Private Hire Operator's/Driver's Private Hire Vehicles Terms and Conditions.

The applicant was present at the Hearing and spoke in support of his application. He explained the circumstances of the offence to the Panel and stated that:

- This had been his first and only offence whilst working as a taxi driver. He had been a taxi driver for 43 years and had been employed as a driver with his current taxi company for ten years
- The offence had occurred when he was having problems with his marriage which had now been resolved. He had damaged a car in a dispute with a driver who

- had parked illegally on a taxi rank and had personally paid for the repairs to the car. It was totally out of character for him to do this and he regretted the incident
- He apologised to the Panel for not informing the Council about the offence at the time it had occurred because he did not think that he was required to do so.

The owner of the taxi company that the applicant worked for was also in attendance at the Hearing as a character witness and spoke in support of the applicant. He stated that he was a good driver who had worked for his company without any previous problems and that he did not wish to lose one of his best drivers. He confirmed that this had been the only offence the applicant had committed since he had been employed by his company.

The Panel asked the applicant a number of questions about the offence. 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 the renewal of a Hackney Carriage and Private Hire Driver's Licence be granted with standard conditions.

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

"The Panel has carefully considered your application for the renewal of a Hackney Carriage and Private Hire Driver's Licence. In reaching its decision, the Panel had regard to:

- Government Guidance
- East Northamptonshire Council's Hackney Carriage and Private Hire Driver's Criminal Records Policy: Hackney Carriages/Byelaws Terms and Conditions; and Private Hire Operator's/Driver's Private Hire Vehicles Terms and Conditions
- The verbal character reference presented by the owner of the taxi company.

The Panel has reached the decision to approve the renewal of your Hackney Carriage and Private Hire Driver's Licence for a period of two years with the normal conditions.

Reasons for granting the renewal are as follows:

The Panel noted the conviction in May 2009 for which you received a Caution. Paragraph 2.14 of the Private Hire Operator's/Driver's Private Hire Vehicles Terms and Conditions informs Licence Holders that they are to notify the Chief Environmental Health Officer within 14 days of the date of conviction, giving the particulars of the conviction and the penalty imposed.

Whilst you have not complied with that, the Panel also noted you had declared the conviction at both question 6 and question 8 of the renewal application form and, therefore, believe the non-compliance with paragraph 2.14 of the aforementioned terms and conditions was an inadvertent act.

Paragraph 4.4.2 of the Driver's Criminal Records Policy advises the Panel that any violent behaviour would normally result in an application not being considered for a period of five years. That notwithstanding, the Panel took into account your ten years of unblemished service with your current employer, your personal circumstances at the time of the incident, and attached weight to the positive character reference given by your employer. The Panel feels that whilst this was an isolated incident, the applicant needs to be aware that any similar incident in the future could put his Licence at risk.

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