LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 13 May 2010
Venue: East Northamptonshire House, Cedar Drive, Thrapston
Time: 9:30am
Present: Councillors: -

Glenn Harwood  Brian Northall
Peter MacGovern (Chairman)

PART A ITEMS

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Peter MacGovern be appointed Chairman for this Hearing.

2. MINUTES

The minutes of the meeting of the Licensing (Taxi and Miscellaneous) Panel held on 12 January 2010 were approved and signed by the Chairman.

3. DECLARATIONS OF INTEREST

No interests were declared.

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 new 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 Panel was informed that the applicant was not present for the Hearing. He had informed Officers that he had been unable to attend because of work commitments. After receiving advice from the Solicitor, the Panel agreed that it should consider the application in the
applicant’s absence.

The Criminal Records Bureau (CRB) disclosure revealed that the applicant had been convicted of the following offences on 2 June 1998:

(a) driving a motor vehicle with excess alcohol on 20 December 1997. He was disqualified from driving for 12 months and was fined £300 with £40 costs;

(b) a minor traffic offence. He was fined £100 and his DVLA Licence was endorsed; and

(c) a minor road traffic offence with no separate penalty. His DVLA Licence was endorsed.

Reference was made to Sections 4.1 and 4.2 of the Council’s Hackney Carriage and Private Hire Driver’s Criminal Records Policy.

The Panel noted that the applicant had:

- been fined for speeding offences in April 2002 and March 2004 and had had his DVLA Licence endorsed
- previously held a Hackney Carriage and Private Hire Driver’s Licence issued by this Council from 13 September 2002 to 13 September 2006.

In the absence of the applicant, the Licensing Officer read out a statement which had been sent to the Council in support of his application, which explained the circumstances of the offences. This stated that he had been breathalysed by the Police on the morning of 20 December 1997 and found to be over the legal limit after going out the evening before drinking with some friends. He emphasised that had not offended since this incident and that he took the issue of drink driving very seriously.

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 read out the following statement giving the reasons why the Panel had granted the Licence with standard conditions:

“The Panel had reference to the Government Guidance and East Northamptonshire Council’s Hackney Carriage and Private Hire Drivers Criminal Records Policy when making its decision and the reasons for granting the application were as follows:

The Panel:

1. Noted the conviction for driving a motor vehicle with excess alcohol in June 1998. Whilst serious, the Panel considered that the offence was sufficiently dated not to carry significant weight in its decision making.

2. Also noted the speeding offences in 2002 and 2004 whilst the applicant had held a Driver’s Licence issued by East Northamptonshire Council. The Panel wished to stress the importance it placed on individuals who drove members of the public for a living being fully compliant at all times with all aspects of the law.”
The Chairman mentioned that the Panel’s decision would be sent in writing to the applicant within 21 days and that he had a right of appeal to the Magistrates Court if he was aggrieved with the decision.

6. **REVIEW OF A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER’S LICENCE**

The Licensing Officer reported that a notification had been received on 30 April 2010 from Northamptonshire Police under the Notifiable Occupation Scheme for a caution issued to a driver licensed with this Council for the offence of battery on 24 April 2010.

The Panel was informed that the applicant was not present for the Hearing. He had been informed that his case was being considered by the Panel today but had chosen not to attend. After receiving advice from the Solicitor, the Panel agreed that there was enough evidence to consider the review in the driver’s absence.

A complaint about the driver involved in the incident had been received on 4 May 2010 from a shop keeper in Irthlingborough. The Licensing Officer read out a statement which had been submitted by the complainant explaining the circumstance of the incident.

The Panel noted that the driver’s Licence had been suspended until a decision was taken at this Hearing; that the driver had been arrested after the incident and had been cautioned; and also took account of the driver’s medical history.

Reference was made to Sections 4.1 and 4.4 of the Council’s Hackney Carriage and Private Hire Driver’s Criminal Records Policy.

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

**RESOLVED:**

That the driver’s Hackney Carriage and Private Hire Driver’s Licence be revoked.

The Chairman read out the following statement giving the reasons why the Panel had revoked the Licence:

“The Applicant had been invited to attend the Hearing but chose not to attend and the Panel agreed to review the Licence in his absence. The Panel had reference to the Government Guidance and East Northamptonshire Council’s Hackney Carriage and Private Hire Drivers Criminal Records Policy when making its decision and the reasons for revoking the Licence were as follows:-

1. Based on the Police evidence and the victim’s statement of complaint to East Northamptonshire Council, the Panel came to the conclusion that an assault had taken place. Violent and abusive behaviour at any time was unacceptable and the Policy made it clear that a firm line must be taken by the Panel when dealing with incidents of that kind. The same Policy directed the Panel to consider more seriously any violent and abusive behaviour undertaken whilst on duty as a taxi driver.

2. The evidence presented to the Panel indicated that the taxi was parked with its wheels on the pavement and over double yellow lines, causing an obstruction to both pedestrians and highway traffic. The Panel considered that this action demonstrated
a total disregard of parking restrictions, the law, and care and concern for other highway users.

3. Government Guidance, East Northamptonshire Council’s Hackney Carriage and Private Hire Drivers Criminal Records Policy and the Department for Transport Best Practice Guidance all stated the aim of local authority licensing of taxis was to “protect the public”. With that in mind, the Panel was very concerned about this violent and abusive behaviour. The Policy also stated that a firm line should be taken with those who had convictions for violent or abusive offences, and when violent or abusive offences had occurred when the assailant was on duty as a taxi driver, the Panel were obliged to consider the actions in a more serious light.

4. The Policy stated that at least five years free of violent and abusive behaviour convictions would normally be necessary before any application was reconsidered. Therefore, the Panel gave delegated authority to the Council’s Licensing Officer to consider any application from this person for a Hackney Carriage and Private Hire Driver’s Licence for the next five years.

As a result of the above, the Panel found the respondent in this matter not to be a “fit and proper person” to hold a Hackney Carriage and Private Hire Driver’s Licence.”

The Chairman mentioned that the Panel’s decision would be sent in writing to the driver within 21 days and that he had a right of appeal to the Magistrates Court if he was aggrieved with the decision.

Chairman