

# 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**