

REPORT FOR DECISION

**Agenda
Item**

MEETING:	LICENSING & SAFETY PANEL	
DATE:	6 th OCTOBER 2014	
SUBJECT:	AMENDMENT TO THE SCHEME OF DELEGATION TO LICENSING AND SAFETY PANEL	
REPORT FROM:	ASSISTANT DIRECTOR (LOCALITIES)	
CONTACT OFFICER:	MR W A JOHNSON	
TYPE OF DECISION:	COUNCIL	
FREEDOM OF INFORMATION/STATUS:	This report is within the public domain	
SUMMARY:	The report proposes simplification and minor amendment to the delegations to Licensing & Safety Panel within the Council Constitution	
OPTIONS & RECOMMENDED OPTION	<ol style="list-style-type: none"> 1. Make a recommendation to Council for the changes proposed at Paragraphs 2.4, 2.7 & 2.9 This is the preferred option. 2. Make a recommendation on an alternative proposal 3. Make no changes 	
IMPLICATIONS:		
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework?	Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	There are no specific issues from the report other than potential costs/risks associated with legal appeals	
Health & Safety implications:	The fundamental principal is one of public protection. It is desirable that driver, vehicle and operator licences are dealt with in a timely and consistent manner.	
Statement by Executive Director of Resources:	The cost of the licensing function is funded through the fees and charges levied by the Council. There may be additional costs if licence holders/ applicants appear before Panel or appeals on decisions are lodged with the Courts.	
Equality/Diversity implications:	None - The proposals will affect all drivers equally and do not affect any of the protected equality characteristics.	
Considered by Monitoring Officer:	This report provides for an amendment to the process and ensures it is correctly delegated	

	within the terms of the Council's constitution. This will ensure the risk of decisions being challenged is minimised and that there is consistency in decision making.
Wards Affected:	N/A - the recommendation is not area based
Scrutiny Interest:	Overview and Scrutiny Panel

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

- 1.1 The Council Constitution at Pt 3.2 (B) details the delegations from Council to the Licensing & Safety Panel.
- 1.2 In general terms where there are grounds for refusal of a licence the decision is delegated to the Licensing & Safety Panel, with officers granting licences where there are no grounds for refusal.
- 1.3 Following an officer review of the current scheme of delegation minor amendments are proposed to simplify the scheme and ensure conformance with the legislative requirements.
- 1.4 The proposals relate to the determination of public/ private hire licences and policy issues within the Licensing Act 2003 and the Gambling Act 2005.

2.0 ISSUES

- 2.1 Paragraph 1 Pt 3.2 (B) of the constitution gives the following delegation to Licensing & Safety Panel:-

To determine all new applications for hackney carriage and drivers' licences and private hire vehicles', operators' and drivers' licences where the applicants do not comply with the relevant criteria or where there are grounds for refusal of the applications (as to licensing hackney carriages) under the Town Police Clauses Act 1847 as extended by section 171 of the Public Health Act 1875 and section 15 of the Transport Act 1985; and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976; (as to licensing private hire vehicles) sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976; (as to licensing drivers) sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act

1976; (as to licensing operators) sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976

2.2 Paragraph 2 Pt 3.2 (B) gives the following delegation to Licensing & Safety Panel:-To determine applications for the renewal of private hire vehicles', operators' and drivers' licences where the applicants do not comply with the relevant criteria (under the legislation referred to in (1) above).

2.3 As Members will note within the Constitution delegation at Paragraph 2 there is no mention of licence renewals relating to hackney carriages. As Licensing Officers are authorised to take action under the relevant legislation where there are no specific delegations to an alternative place renewal decisions on hackney carriage licences currently fall to officers. However, Paragraph 9 the scheme of delegation provides for officers not wanting to exercise delegated powers to refer matters to the Licensing & Safety Panel for determination. In practice this is the means that renewal applications have been placed before Members for consideration.

2.4 The proposed amendment would be:-

To determine all new applications and all renewals for hackney carriage proprietor (vehicle), hackney carriage driver, private hire vehicle, private hire driver and private hire operator licences where the applicants do not comply with the relevant policy, guidelines, criteria or where there are grounds for refusal of the applications under the relevant legislation.

2.5 With the proposed amendment as given above a situation can arise where a vehicle licence cannot be renewed by officers because it is outwith the Council's age policy and without delegation officers cannot refuse the application. Whilst the vehicle licence holder will be given an opportunity to attend Licensing & Safety Panel to ask that they deviate from the policy, as no formal decision is made until the next scheduled meeting, which may be some weeks away, an aggrieved licence holder cannot engage in the appeals process. If during the period between renewal application and determination at Licensing & Safety Panel the licence expires the holder will be unable to work.

2.6 In altering the delegation Members are asked to consider a specific delegation to officers to determine renewal applications for vehicle licences where the vehicle does not conform to the age policy set by Licensing & Safety Panel.

2.7 The proposed amendment to officers would be:-

To determine applications to renew hackney carriage proprietor and private hire vehicle licences where the vehicle does not conform to the current vehicle age policy.

2.8 Paragraphs 12 & 13 Pt 3.2 (B) are general delegations to deal with matters in respect to the Licensing Act 2003 & the Gambling Act 2005. Amongst other matters they purport the delegation of all policy matters to Licensing & Safety Panel. Through the relevant statutes the setting of policy is specifically reserved to Council and cannot be delegated.

2.9 In practice the setting of policy has been undertaken by Council. The proposed amendment would simply be to remove the mention of policy from the delegation.

3.0 CONCLUSION

- 3.1 This report proposes the amendment and simplification of the scheme of delegations to Licensing & Safety Panel.
- 3.2 The proposed amendments clarify the existing working arrangements.

List of Background Papers:-

Council Constitution- Pt 3.2 (B) Delegations to Regulatory & non- Executive Committees (pg 89)

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