



TO THE CHAIRMAN AND MEMBERS OF THE **LICENSING COMMITTEE**

You are hereby summoned to attend a meeting of the Licensing Committee to be held on Tuesday, 9 March 2021 at 7.00 pm. The meeting will be held virtually and webcast live through the Council's website in accordance with the Coronavirus Act 2020 and The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 (S.I.2020 No. 392).

RAY MORGAN
Chief Executive

NOTE: Filming Council Meetings

Please note the meeting will be filmed and will be broadcast live and subsequently as an archive on the Council's website (www.woking.gov.uk). The images and sound recording will also be used for training purposes within the Council. By joining the meeting remotely you are consenting to being filmed.

AGENDA

PART I - PRESS AND PUBLIC PRESENT

1. Minutes

To approve the minutes of the meeting of the Licensing Committee held on 19 January 2021 as published.

2. Apologies for Absence

To receive any apologies for absence.

3. Declarations of Interest

To receive declarations of disclosable pecuniary and other interests from Members in respect of any item to be considered at the meeting.

4. Urgent Business

To consider any business that the Chairman rules may be dealt with under Section 100B(4) of the Local Government Act 1972.

Matters for Recommendation

5. Delegated Authority in Respect of Taxi and Private Hire Licensing LIC21-003 (Pages 3 - 28)

Attached are two papers:

- (i) the report deferred from the meeting of the Licensing Committee on 19 January 2021, with the report received by the Committee on 6 October 2020 attached to it as an appendix (pages 3 to 22); and
- (ii) the petition received by Full Council at its meeting on 11 February 2021, together with a covering sheet setting out an extract of the draft minutes (pages 23 to 28).

Reporting Persons – Joanne McIntosh and Matthew Cobb

AGENDA ENDS

Date Published - 1 March 2021

For further information regarding this agenda and arrangements for the meeting, please contact Doug Davern on 01483 743018 or email doug.davern@woking.gov.uk



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LICENSING COMMITTEE – 9 MARCH 2021

DELEGATED AUTHORITY IN RESPECT OF TAXI AND PRIVATE HIRE LICENSING

Executive Summary

At its meeting on 6 October 2020, the Licensing Committee received a report on Delegated Authority in respect of Taxi and Private Hire Licensing, which is attached to this report as an appendix. The Committee made a recommendation to Full Council, as set out below:

“RECOMMENDED to Council

That the existing scheme of delegation for the Legal Services Manager in respect of Taxi and Private Hire Licensing be amended to include the following additional provision:

- (3) In the event that an Officer is minded to reject an application for a new licence or the renewal of an existing licence, any Council Member would be able to call-in that case for a hearing by the Licensing Committee where the final decision would be made by the Committee.”

At its meeting on 15 October 2020, the Council received the recommendation from the Licensing Committee. An extract from the minutes of the Council meeting is set out below:

“The Council received the recommendation of the Licensing Committee which proposed a change to the delegated authority arrangements for the refusal of applications for a new taxi or private hire licence or the renewal of an existing licence. The proposal had the effect of allowing any Member of the Council to refer to the Licensing Committee an application for a new taxi or private hire licence or the renewal of an existing licence where the Licensing Officer was minded to refuse the application. Councillor Ali advised that the proposal was the same as the approach adopted by Runnymede Borough Council.

The proposal was debated at length by the Council, with the discussion covering various elements of the proposals, including the process through which such a scheme would operate and the most suitable body to consider such appeals. Whilst it was agreed that any such appeals would be determined by the Taxi and Private Hire Licensing Sub-Committee, rather than the Licensing Committee itself, concerns over the proposal remained. In view of the concerns, it was proposed that the matter should be referred back to the Licensing Committee for further discussion.

RESOLVED

That the proposal to change the Officer scheme of delegation be given further consideration at the next meeting of the Licensing Committee.”

Further consideration has been given to this matter and it is recommended that any new application which cannot be approved by the Legal Services Manager under delegated authority should be reported to a Taxi Licensing Sub-Committee for determination.

Delegated Authority in Respect of Taxi and Private Hire Licensing

Recommendations

The Committee is requested to:

RECOMMEND TO COUNCIL That

- (i) The Council's scheme of delegations be amended on page 115, Delegated Authority to the Legal Services Manager, to read as follows:-

Taxi and Private Hire Licensing Applications:

- (1) Applications: To approve applications for licences for private hire operators, private hire drivers and taxi drivers:
 - (2) New Applicant: To issue a "minded to" refuse letter to a new applicant in respect of an application for a private hire operator, private hire driver or a taxi drivers licence and refer the matter to the Taxi Licensing Sub-Committee for determination as to whether or not the driver is "fit and proper" to hold a licence:
 - (3) Renewals: To approve or refuse applications for renewal of licences by existing licence holders:
 - (4) Penalty Points Scheme: To issue a formal notice to a licence holder that they have reached the requisite number of penalty points under the Penalty Points Scheme and refer the matter to a Taxi Licensing Sub-Committee for determination:
 - (5) Revocation/Suspension of Licences: In consultation with the Chairman of the Licensing Committee (or in his/her absence, the Vice-Chairman) to suspend or revoke private hire operators' and drivers' and taxi drivers' licences in appropriate cases under Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976
 - (6) Vehicles: To approve or refuse applications for private hire vehicles and taxis:
- (ii) All Members of the Taxi Licensing Sub-Committee shall undertake mandatory training:

The item(s) above will need to be dealt with by way of a recommendation to Council.

Background Papers: Part 3 – Delegated Authority – The Constitution
<https://moderngov.woking.gov.uk/documents/s1209/Part%203%20-%20Responsibility%20of%20Functions%20Management%20Arrangements%20and%20Sceme%20of%20Delegations.pdf>

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Delegated Authority in Respect of Taxi and Private Hire Licensing

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Date Published:

1 March 2021

Delegated Authority in Respect of Taxi and Private Hire Licensing

Delegated Authority in Respect of Taxi and Private Hire Licensing

1.0 Introduction

- 1.1 At its meeting on 6 October 2020, the Licensing Committee received a report on Delegated Authority in respect of Taxi and Private Hire Licensing, which is attached to this report as an appendix. The Committee made a recommendation to Full Council, as set out below:

“RECOMMENDED to Council

That the existing scheme of delegation for the Legal Services Manager in respect of Taxi and Private Hire Licensing be amended to include the following additional provision:

- (3) In the event that an Officer is minded to reject an application for a new licence or the renewal of an existing licence, any Council Member would be able to call-in that case for a hearing by the Licensing Committee where the final decision would be made by the Committee.”

- 1.2 At its meeting on 15 October 2020, the Council received the recommendation from the Licensing Committee. An extract from the minutes of the Council meeting is set out below:

“The Council received the recommendation of the Licensing Committee which proposed a change to the delegated authority arrangements for the refusal of applications for a new taxi or private hire licence or the renewal of an existing licence. The proposal had the effect of allowing any Member of the Council to refer to the Licensing Committee an application for a new taxi or private hire licence or the renewal of an existing licence where the Licensing Officer was minded to refuse the application. Councillor Ali advised that the proposal was the same as the approach adopted by Runnymede Borough Council.

The proposal was debated at length by the Council, with the discussion covering various elements of the proposals, including the process through which such a scheme would operate and the most suitable body to consider such appeals. Whilst it was agreed that any such appeals would be determined by the Taxi and Private Hire Licensing Sub-Committee, rather than the Licensing Committee itself, concerns over the proposal remained. In view of the concerns, it was proposed that the matter should be referred back to the Licensing Committee for further discussion.

RESOLVED

That the proposal to change the Officer scheme of delegation be given further consideration at the next meeting of the Licensing Committee.”

- 1.3 Following debate at Full Council on 15 October 2020, the Officer Scheme of Delegations had been referred back to the Licensing Committee for further consideration. Further consideration has been given to this matter and it is recommended that any new application which cannot be approved by the Legal Services Manager under delegated authority should be reported to a Taxi Licensing Sub-Committee for determination.

2.0 Delegated Authority

- 2.1 The current powers delegated to the Legal Services Manager can be found in Part 3, Responsibility for Functions, Management Arrangements, and Scheme of Delegations of the Constitution at page 115. At its meeting on 6 October 2020, the Licensing Committee received a report titled Delegated Authority in respect of Taxi and Private Hire Licensing, which is attached to this report as an appendix.

Delegated Authority in Respect of Taxi and Private Hire Licensing

3.0 Call In Procedure

- 3.1 A "Call In" procedure for the proposed refusal of new applications and renewal of licences has been central to the debate. As outlined in my earlier report and debated during the meetings this approach, for numerous reasons, is not desirable. It is considered that it would be cumbersome and unworkable in all the circumstances. Contrary to a Members comments at Full Council it is not operated at Runnymede Borough Council. However, what is apparent from the debate is the desire for more Member engagement within the process. To address these concerns the below process is proposed.

4.0 New Applications

- 4.1 All new applications received are considered on their merits against the regulatory framework and our current policy. Under the current scheme of delegations a decision to refuse or grant a licence is made at Officer level. The applicant has a right to appeal against a refusal of a licence to the Magistrates Court.
- 4.2 It is proposed that when an Officer is "minded to" refuse an application on the basis that a driver is not "fit and proper" the matter shall be referred to a Taxi Licensing Sub-Committee for determination. It is proposed that this system be implemented for a period of 1 year, with a report being brought back before the Licensing Committee for consideration at the end of this period. A thorough review by the Licensing Committee after an initial period of 1 year shall ensure that the new process is working and allow for any feedback or amendments to be made.
- 4.3 It should be noted that this proposal is to bring matters before Members in respect of the question as to whether or not a driver is "fit and proper" to hold a licence. Such circumstances may include information contained within an applicant's DBS check or other soft intelligence provided by the police or other agencies. Officers shall continue to process applications and shall manage any failure to complete the application process such as non-completion of the CSE or BTEC training or the failure to pass the knowledge test.

5.0 Renewals

- 5.1 A similar process has been considered in respect of renewals. Members should be aware that once a driver has made an application to renew their licence they can continue to drive until the renewal process is determined. As has been discussed previously the introduction of determination by a Sub-Committee will result in a delay in determination of any matter whilst the Sub-Committee is called. It is estimated that it this process shall take six to eight weeks. This poses the risk that a driver could continue to drive when not "fit and proper" to do so. Particular concerns arise in respect of drivers who are deemed to be medically unfit to drive during the renewal process. Should the Council's Medical Adviser deem a driver to be medically unfit to drive a taxi, it is paramount that the renewal is determined as soon as possible to ensure public safety. As such, it is considered that authority to determine renewals remains at Officer level.
- 5.2 It should be noted that any convictions should, by law and under the conditions of a drivers licence, be reported to the Council immediately. Any other infractions shall be dealt with through the recently adopted Penalty Points Scheme (by Members at a taxi Licensing Sub-Committee) and as such it is not envisaged that a driver should present a DBS report at renewal which contains information not known to the Council.

6.0 Training

- 6.1 Local Government Association guidance states as follows:-

"No councillor should be permitted to sit on a committee or sub-committee without having been formally trained. As a minimum, training should cover licensing

Delegated Authority in Respect of Taxi and Private Hire Licensing

procedures, natural justice, understanding the risks of child sexual exploitation, and disability equality, as well as any additional issues deemed locally appropriate.

It is important that training does NOT simply relate to procedures, but also covers the making of difficult and potentially controversial decisions, and the use of case study material can be helpful to illustrate this.

All training should be formally recorded by the council and require a signature from the Councillor”

- 6.2 Given the importance of training in this area it is proposed that mandatory training in respect of the determination of Taxi licences shall be undertaken by all Members of the Taxi Licensing Sub-Committee. This training shall be provided by an external expert training provider. It is proposed that Members shall not be able to sit on the Sub-Committee if they have not undertaken the mandatory training. Following the success of the recent training webinars produced by Cornerstone Barristers, it is proposed they undertake this training subject to them providing an acceptable quotation.

7.0 Implications

Financial

- 7.1 It is proposed that mandatory training in respect of the determination of Taxi licences is undertaken by all Members of the Taxi Licensing Sub-Committee. This training shall be provided by an external training provider.
- 7.2 As noted below in more detail, there is likely to be human resource implications. The Council is entitled to recover from the licence fee the costs of administering a licensing regime. Should it be necessary to increase staffing levels to manage an increased workload, the Council shall seek to recover such expenditure through an increase in licence fees.

Human Resource/Training and Development

- 7.3 There is likely to be human resource implications for the Licensing, Legal Services and Democratic Services teams should the Council be required to hold more Licensing Sub-Committees. This will be monitored and reported back to the Licensing Committee at the proposed annual review or sooner, if necessary.

Community Safety

- 7.4 The proposals will continue to ensure the safety of the travelling public.

Risk Management

- 7.5 None arising from this report.

Sustainability

- 7.6 None arising from this report.

Equalities

- 7.7 None arising from this report.

Safeguarding

Delegated Authority in Respect of Taxi and Private Hire Licensing

7.8 The proposals will continue to ensure the safety of the travelling public.

8.0 Conclusions

8.1 That having considered all the options available it is considered that the amendments to the scheme of delegation, as outlined above, secure Member engagement and should be recommended for adoption by Full Council.

REPORT ENDS

DELEGATED AUTHORITY IN RESPECT OF TAXI AND PRIVATE HIRE LICENSING

Executive Summary

The Licensing Committee has requested a review of the current scheme of delegated authority in respect of Taxi and Private Hire licensing. A thorough review has been undertaken and it is considered that the current scheme operates in line with best practice and should continue as drafted, subject to any changes adopted with the proposed introduction of a penalty points system.

Recommendations

The Committee is requested to:

RESOLVE That

- (i) the scheme of delegations continues to have effect.

The Committee has the authority to determine the recommendation(s) set out above.

Background Papers: Part 3 – Delegated Authority – The Constitution
<https://moderngov.woking.gov.uk/documents/s1209/Part%203%20-%20Responsibility%20of%20Functions%20Management%20Arrangements%20and%20Scheme%20of%20Delegations.pdf>

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Date Published: 28 September 2020

Delegated Authority in Respect of Taxi and Private Licensing

1.0 Introduction

- 1.1 The Licensing Committee has requested a review of the current scheme of delegated authority in respect of Taxi and Private Hire licensing.

2.0 Delegated Authority

- 2.1 The current powers delegated to the Legal Services Manager can be found in Part 3, Responsibility for Functions, Management Arrangements, and Scheme of Delegations of the Constitution at page 115. The Legal Services Manager is delegated the following authority in respect of Taxi and Private Hire Licensing:

Taxi and Private Hire Licensing:

- (1) to determine applications for licences for:

- (a) private hire operators, private hire drivers and taxi drivers, and
- (b) private hire vehicles and taxis.

(2). Revocation/Suspension of Licences: In consultation with the Chairman of the Licensing Committee (or in his/her absence, the Vice-Chairman) to suspend or revoke private hire operators' and drivers' and taxi drivers' licences in appropriate cases

- 2.2 It was agreed that an annual report providing an overview of the year would be presented to the Licensing Committee providing anonymized details of the exercise of the delegated authority to, in consultation with the Chairman of the Licensing Committee, suspend or revoke a licence. The annual Overview of the Year report is also before the Licensing Committee tonight. This provides transparency and accountability. Should any Councillors wish further details or to discuss these matters then they are encouraged to contact the Legal services Manager who is happy to provide such information.
- 2.3 It should be noted that any decision to suspend or revoke a licence is subject to a right to make an appeal to the Magistrates Court. Since we started recording revocations and suspension and reporting them to the Licensing Committee in 2017, there has been 71 suspensions and revocations. It should be noted that 37 of the 71 relate to suspension of licences for failing to complete the mandatory CSE training. 10 appeals have been lodged, we are waiting the outcome of three appeals and of those appeals determined all appeals but one have been dismissed. 8 appeals were against the revocation of licences and 2 against refusal.
- 2.4 Appendix 1 provides a copy of the overview of revocations and suspensions which has been reported to the Licensing Committee for the last few years. It is proposed that appeals lodged and the outcome of the same shall be reported to the Licensing Committee as part of the overview of the year report.

3.0 The determination of applications for licences

- 3.1 The Legal Services Manager has delegated authority to determine applications for licences. This exercise is undertaken in accordance with the Council's policy and relevant guidance and legislation. It should be noted that Licensing authorities have to make difficult decisions; the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If an officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction

Delegated Authority in Respect of Taxi and Private Licensing

- 3.2 It has been requested that consideration be given to the referral of any refusal to issue a licence or licence renewal to a Licensing Sub-Committee for determination.
- 3.3 Consideration has been given to this request and potential alternate methods that could be introduced explored. However, it is not considered that this is the most appropriate method to determine such applications. Such decisions are made in line with the Council's adopted policy as outlined in the Taxi Driver Handbook. This ensures transparency and consistency of decision making. It also ensures that an application is determined as quickly as possible. It is considered that such a change could give rise to numerous unnecessary Licensing Sub-Committee's being held. If an application should be clearly refused in line with adopted policies and government guidance but provision is made for a referral to a Licensing Sub-Committee then it is argued that this will be an unnecessary and time consuming procedure for all those involved.
- 3.4 Consideration has been given to a "call in" procedure in respect of proposed licence refusals. The proposal being that should an Officer consider that an application should be refused in line with the Council's policy then a 21 day "standstill" period should be put in place in which a member of the Licensing Committee or Ward Councillor shall be able to "call in" a decision to the Licensing Sub-Committee. The reasons as outlined above similarly apply to this type of "call in" procedure, I have not repeated them again. A decision to refuse an application for a licence is usually based on sensitive personal information such as an enhanced DBS check or detailed medical information. The nature of the information relied on to make a decision of this nature is sensitive and not the type of information that should be widely shared if not necessary. Unlike planning applications, licensing applications are not a matter of public record and the information submitted is not published on a portal. There is an expectation that such matters are considered with a level of confidentiality.
- 3.5 It is proposed that the delegated authority be retained for the determination of applications and refusals. There is no indication that any applications have been granted when they should not have been done so.
- 3.6 It should be noted that any applicant who is refused a licence has the right to appeal to the Magistrates Court. An appeal mechanism is in place which allows an appropriate route to for the applicant to challenge the decision.
- 3.7 There has been 2 appeals against the refusal of a licence since 2017. The Magistrates upheld the Council's decision in one appeal and the other appeal is listed for a hearing in May 2021. The current system works well and ensures that decisions are made quickly and in accordance with the Council's adopted policy and relevant legislation and guidance.

4.0 The revocation and suspension of licences

- 4.1 Under Section 61 (1) of the Local Government (Miscellaneous Provisions) Act 1976 a District Council may suspend, revoke or refuse to renew a hackney carriage / private hire driver's licence. This may be for the following reasons:
- a) since the grant of the licence they have been convicted of an offence involving dishonesty, indecency or violence; or
 - b) any other reasonable cause.

Under this Section the driver has 21 days to appeal against the decision to the Magistrates' Court and, during the appeal period, the licence holder can continue to drive hackney carriage / private hire vehicles.

- 4.2 Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976 enables a decision to suspend or revoke a hackney carriage / private hire driver's licence to take immediate effect, should the Council believe it to be necessary in the interests of public

Delegated Authority in Respect of Taxi and Private Licensing

safety. This means the driver cannot continue to drive hackney carriage / private hire vehicles during the appeal period.

- 4.3 To assist the Licensing Committee examples of situations where immediate suspension or revocation might be warranted are listed below. It should be noted that this list is not exhaustive but guidance as to the likely use of the delegated authority:-
- (a) Allegations of violence against a passenger or person wishing to travel;
 - (b) Allegations of indecency, including sexual assault and rape, against a passenger or person wishing to travel;
 - (c) Allegations that the driver is unfit to drive as a result of being under the influence of drugs or alcohol;
 - (d) Admitted sexual contact with a passenger in the vehicle;
 - (e) An immediate suspension may take place when a driver no longer meets Group 2 medical standards. In these circumstances the suspension could have effect until the driver could provide evidence to show they were 'fit' to the required standard.
- 4.4 The Legal Services Manager, in consultation with the Chairman of the Licensing Committee (or in his/her absence, the Vice-Chairman) has been delegated authority to suspend or revoke private hire operators' and drivers' and taxi drivers' licences in appropriate cases. This delegation applies to all suspensions and revocations i.e it does not distinguish immediate suspension and revocation or suspension and revocation after 21 days.
- 4.5 The Legal Services Manager, in consultation with the Chairman of the Licensing Committee (or in his/her absence, the Vice-Chairman), retains delegated authority to suspend or revoke licences immediately. Such decision need to be made quickly to ensure the safety of the public. The decisions are made in consultation with the Chairman of the Licensing Committee (or in his/her absence, the Vice-Chairman) and reported to the Licensing Committee annually for transparency. In such cases, it would not be logistically possible to call a Licensing Sub-Committee to determine the application.
- 4.6 It should be noted that to call a Sub-Committee specific steps need to be undertaken which take time to arrange. Officers need to draft a report, a date on which a Sub-Committee can sit and accommodation is available determined. The Sub-Committee needs to be scheduled and the agenda, together with the Officer report, published within the correct procedural timeframes. Taking all these procedural factors into account, it is unlikely that a Sub-Committee could be held within a month of the need arising.
- 4.7 On 21 July 2020, the Department of Transport issued new standards to improve safety for taxi and private hire vehicle passengers. Paragraph 5.11 states "...**all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence**. It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service." This reinforces that the Council's current scheme of delegation is in line with government guidance and best practice.
- 4.8 Councillors will note the above reference to the suspension of 37 licences for failing to complete the mandatory Child Sexual Exploitation training within the required time frame. Nine of the above completed their CSE training after their licence was suspended, resulting in the removal of the licence suspension. No appeals were lodged in respect of the same. The requirement for drivers to complete the BTEC before 31 March 2021 is fast approaching and to date 362 drivers have not yet completed the course. The Licensing Department shall send reminders to drivers that the course must be completed by 31 March 2021 however it is anticipated that multiple licences may have to be suspended until compliance is secured.

Delegated Authority in Respect of Taxi and Private Licensing

5.0 Penalty Points Scheme

- 5.1 It should be noted that should the proposed penalty points scheme be adopted it proposes that should a driver receive a total of twelve points the matter be referred to a Licensing Sub-Committee for consideration. The report outlines the proposed procedure and is separate to this matter before the Committee. The matters which will be subject to the points system are such that would not result in an immediate suspension and would be referred to the Licensing Sub-Committee for determination. These matters are those which would fall under Section 61 (1) of the Local Government (Miscellaneous Provisions) Act 1976.
- 5.2 As outlined in the report, the introduction of a penalty points scheme and matters being referred to a Sub-Committee for determination shall provide a transparent decision making method. It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the licensing functions. It shall avoid the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.

6.0 Implications

Financial

- 6.1 None arising from this report.

Human Resource/Training and Development

- 6.2 There is likely to be human resource implications for the Licensing, Legal Services and Democratic Services teams should the Council be required to hold more Licensing Sub-Committees. It is anticipated that this will be minimal and will be met out of the current resources available to these teams.
- 6.3 Members are currently provided with annual training however further training is recommended specifically relating to Taxi and Private Hire licensing and Licensing Sub-Committees. As a minimum, training for a member of a licensing committee should include: licensing procedures, natural justice, understanding the risks of CSE, disability and equality awareness and the making of difficult and potentially controversial decisions.

Community Safety

- 6.4 The proposals will continue to ensure the safety of the travelling public.

Risk Management

- 6.5 None arising from this report.

Sustainability

- 6.6 None arising from this report.

Equalities

- 6.7 None arising from this report.

Safeguarding

- 6.8 The proposals will continue to ensure the safety of the travelling public.

Delegated Authority in Respect of Taxi and Private Licensing

7.0 Conclusions

- 7.1 That having considered all options available to the Licensing Department it is recommended that the current delegations remain as drafted, however should the Members be minded to adopt the penalty points system, it is noted that matters arising from the issuance of penalty points for minor matters shall be determined under Section 61 (1) of the Local Government (Miscellaneous Provisions) Act 1976 by a Licensing Sub Committee.

REPORT ENDS

Appendix 1

Refusals, Revocations and Suspensions

Reference: 004034

Date: 15/03/2017

Information: Video and photograph evidence shows driver using a mobile phone (watching a video) whilst transporting a minor under Surrey County Councils School Runs Scheme.

Outcome: Licence revoked under the grounds of being not fit and proper (driving without due care and attention.)

Reference: 003185

Date: 28/03/2017

Information: Driver caught as part of a sting operation by Licensing Authority and was found to be driving a car for hire and reward whilst not in possession of a valid driver or vehicle licence.

Outcome: Successfully prosecuted at Guildford Magistrates Court.

Reference: 004035

Date: 06/04/2017

Information: Disclosure and Barring Service Certificate showed twelve convictions for nineteen offences and one caution for one offence.

Outcome: Application Refused on grounds of not fit and proper (as per Criminal Convictions Policy)

Appeal: Appealed WBC Decision. Guildford Magistrates Court found WBC's decision to be correct.

Reference: 004048

Date: 05/05/2017

Information: Numerous forms the applicant had completed turned out to contain false information. This included providing false information on a Disclosure and Barring Service Application Form.

Outcome: Application Refused on grounds of repeatedly providing false information on official documents. Failed to show honesty and therefore was not fit and proper.

Reference: 003187

Date: 31/05/2017

Information: Home Office Evidence showed applicant has no right to work in the UK.

Outcome: Licence Revoked

Reference: 003188

Date: 31/05/2017

Information: Home Office Evidence showed applicant has no right to work in the UK.

Outcome: Licence Revoked

Reference: 003189

Date: 31/05/2017

Information: Home Office Evidence showed applicant has no right to work in the UK.

Outcome: Licence Revoked

Reference: 003190

Date: 31/05/2017

Information: Home Office Evidence showed applicant has no right to work in the UK.
Outcome: Licence Revoked

Reference: 003384

Date: 04/07/2017

Information: Has received three separate allegations from three separate female fare paying passengers of sexual assault.

Outcome: Revoked on grounds of not fit and proper.

Appeal: Appealed WBC Decision, Guildford Magistrates Court found WBC decision to be correct.

Reference: 003294

Date: 13/07/2017

Information: Medical Assessment from G.P. shows driver not medically fit to drive.

Outcome: Licence Revoked

Reference: 003394

Date: 07/08/2017

Information: Medical Assessment from G.P. shows driver not medically fit to drive.

Outcome: Licence Revoked

Appeal: Appealed WBC Decision, Guildford Magistrates Court found WBC decision to be correct.

Reference: 004232

Date: 10/08/2017

Information: Was found to be operating a private hire company without a valid licence. Furthermore, was stopped by Surrey Police carrying passengers without a valid vehicle or driver licence.

Outcome: Application refused, and successfully prosecuted at Guildford Magistrates Court.

Reference: 003606

Date: 06/12/2017

Information: Driver was successfully prosecuted by Guildford Borough Council for plying for hire (i.e. they are a Private Hire Driver and picked up a passenger without a booking in the Guildford Town Centre).

Outcome: Licence revoked.

Reference: 004301

Date: 07/12/2017

Information: Disclosure and Barring Service Certificate shows eighteen convictions for thirty-six offences.

Outcome: Application Refused under grounds of not fit and proper (in line with Criminal Conviction Policy)

Reference: 004722

Date: 28/02/18

Information: Disclosure and Barring Service Certificate shows two convictions for three offences and one caution for one offence.

Outcome: Application refused under grounds of not fit and proper (in line with Criminal Conviction Policy)

Reference: 003463

21/03/18

Drivers licence revoked on the grounds that

- i) they had been arrested by Surrey Police for Child Abduction
- ii) they had previously been arrested, cautioned and had their licence suspended carrying a bladed article in their licenced vehicle
- iii) they had a record of historical convictions, such as handling stolen goods, possession of a controlled drug and a caution for resisting or obstructing a constable.
- iv) Surrey Police had expressed concerns as on three separate occasions the driver had been caught using or carrying cannabis which suggested a pattern
- v) Surrey police had also expressed concerns as a stop and search of his vehicle had found a wash kit in the central console containing wet wipes, condoms etc – which we were informed by the Police is a common accoutrement for those involved in the control of prostitution.

Reference 004048

26/03/18

Applicant's renewal was refused on the grounds that

- i) they had failed to disclose a previous licence refusal (which is a requirement of the application form)
- ii) they had failed to notify us of an address change (whilst licenced)
- iii) on more than one occasion they had provided us with false addresses on official application forms
- iv) they had provided false information on a Disclosure and Barring Service (DBS, formerly the CRB check) application form.
- v) They had failed to update their DVLA licence in contravention of DVLA requirements.

Reference 004966

29/05/18

Applicant's renewal was refused on the grounds that their DBS Certificate showed "Theft by an employee" which is in contravention of Woking Borough Councils Criminal Convictions Policy.

Reference 003802

21/06/18

Drivers licence was revoked on the grounds that

- i) they had been arrested by Surrey Police on suspicion of being concerned in the supply of a Class A Drug and possession of a controlled drug of Class B after a warrant was executed at their home address.
- ii) The applicant had a substantial criminal history of similar incidents including affray, allowing a dog to be dangerously out of control and causing injury, using racially threatening and abusive language intended to cause distress, two convictions for possessing cannabis, three convictions for possessing cannabis with intent to supply and one conviction for possessing cocaine with intent to supply.
- iii) they had been involved in an incident whereupon they had physically assaulted another driver whilst in the reception of the Civic Offices at Woking Borough Council.

Reference 003253

20/07/18

Applicant's renewal was refused on the grounds that an independent medical advisor had deemed them to be 'not medically fit to drive a vehicle for hire and reward,' in line with the DVLA standards.

Reference 003461

20/07/18

Applicant's renewal was refused on the grounds that an independent medical advisor had deemed them to be 'not medically fit to drive a vehicle for hire and reward, in line with the DVLA standards.

Reference 004201

25/07/19

Drivers licence was revoked after they were caught illegally plying for hire in Guildford. The applicant had been caught by Guildford Council Officers and had been found guilty of the offence both at the Magistrates Court and the Crown Court.

Reference 003885

25/09/18

Applicants renewal was refused on the grounds that

- i) it transpired as part of the renewal that they had been caught driving a vehicle without insurance
- ii) they had failed to notify the Licensing Authority of the DVLA endorsement, in contravention of Condition 1b of their licence
- iii) they had provided false information on the renewal form (choosing to state they had never had a licence refused or revoked, when in reality in 2011 they had their licence revoked for illegally plying for hire)

Reference 003465

12/12/18

Drivers licence was revoked on the grounds that

- i) In September 2018 they had had been caught and convicted by Surrey Police of driving a licenced vehicle whilst there was no valid insurance in place,
- ii) In December 2018 they had been caught again by Surrey Police driving a licenced vehicle whilst there was no valid insurance in place,
- iii) they had failed to notify the Licensing Authority of the conviction or the endorsement, in contravention of Condition 1 and Condition 2 of their licence.

Reference 003464

14/12/18

Applicants renewal was refused on the grounds that

- i) they had been disqualified from driving for 'totting up,'
- ii) they had failed to notify the Licensing Authority of the conviction or the endorsement, in contravention of Condition 2 of their licence,
- iii) they had continued to hold a Hackney Carriage Drivers licence whilst not in possession of a valid DVLA Driving Licence.

Reference 003444

03/01/19

Drivers licence was suspended in August 2018 because they had been arrested and charged for a violent domestic incident and a child protection incident. On the 17th of December 2018 the driver attended court, pleaded guilty, and was convicted for common assault. The Criminal Convictions Policy states that a conviction for Common Assault will prevent a licence being issued until 10 years have passed since the completion of the sentence, and as such the suspension was replaced with a revocation.

Reference 003761

03/01/19

Drivers licence was revoked on the grounds that information had been received from Surrey Police regarding an incident whereupon the driver had purchased a controlled substance (Class A, Cocaine) and proceeded to take that drug in their licenced vehicle along with two vulnerable female youths. Having taken the drug they then proceeded to drive the licenced vehicle whilst under the influence of drugs.

Reference 003594

01/04/19

Drivers licence was revoked on the grounds that

- i) during a previous renewal, it was discovered they had failed to declare DVLA points/endorsements (in contravention of Condition 1 of their licence) and received both a verbal and a written warning about it.
- ii) they had received a six month driving ban/disqualification and failed to notify the Licensing Authority in contravention of Condition 1 of their licence.
- iii) they had continued to hold a Private Hire Drivers licence whilst not in possession of a valid DVLA Driving Licence.

Reference 003877

01/04/19

Applicants renewal was refused on the grounds that

- i) they had received a six month driving ban/disqualification and failed to notify the Licensing Authority in contravention of Condition 1 of their licence
- ii) they had continued to hold a Private Hire Drivers licence whilst not in possession of a valid DVLA Driving Licence.

Reference 003528

16/04/19

Applicant's renewal was refused on the grounds that an independent medical advisor had deemed them to be 'not medically fit to drive a vehicle for hire and reward,' in line with the DVLA standards

Reference 006170

13/11/2019

Operator's licence revoked on the grounds that they had knowingly given regular work (transport of vulnerable children) to an unlicensed and therefore uninsured driver. They had failed to comply with the conditions of their licence in that they had not properly kept records of the journeys carried out – thus breaching their licence and potentially compromising the capability of both the licensing authority and the police in carrying out their duties.

Reference 003426

15/11/2019

A hackney drivers licence revoked on the grounds that they had refused to take an elderly blind lady with a guide dog, in contravention of the Equality Act 2010.

Reference 003294

18/11/2019

Allegation of sexual assault from a driver on a passenger. A report was received of a suspected low level sexual assault (touching a male passengers hair in an unwanted sexual manner following a flirtatious conversation) following an investigation it was established that the customer was not willing to make a statement against the driver, no injury was caused, and both the licensing authority and the police felt that the driver did not present a threat to the public and showed remorse for touching the customer.

As a result – the driver accepted a community resolution from surrey police and the licensing authority felt that there was no requirement to take any further action. The driver was allowed to continue his employment as a licenced driver.

Reference 003671
18/11/2019

Drivers licence revoked on the grounds that

- they had provided a false address on the application form
- they had provided a false address on the disclosure and barring service application
- they had provided a false address on the D4 medical assessment
- they had failed to notify the licensing authority of any change of address
-

Reference – Various

Thirty-Seven Licences suspended for failing to complete the mandatory Child Sexual Exploitation training within the required time frame.

Nine of the above completed their CSE training after their licence was suspended, resulting in the removal of the licence suspension.

PETITION – TAXI LICENSING ARRANGEMENTS

Executive Summary

At its meeting on 11 February 2021, the Council received a report regarding a petition which had been submitted in the following terms:

“Implement a system wherein a licensed taxi driver has the opportunity to appear before a committee and to make necessary adjustments for drivers due to the COVID pandemic.

At the last full council meeting, the comments from the legal and democratic services manager may have given the impression to council members that drivers do not want a committee-based system and would prefer the current system in place. We, the undersigned, would like to reaffirm our preference for a system where a driver has the opportunity to appear before the licensing committee and we would fully support a change in WBC licensing policy and scheme of delegation of authorities to allow it. Furthermore, the taxi trade has suffered greatly due to COVID-19 and while we fully appreciate the steps Licensing took during these times, we would also like to request two more changes. Taking the BTEC exam is an additional cost. Many drivers are not working at the moment and their careers remains uncertain. Thus we are petitioning WBC to grant an extension to the BTEC deadline. Secondly, some drivers have been issued licenses for six months due to their MOT, and although the government has granted MOT extensions, drivers have not been given extra time on their license. We request that licenses should be issued for a year, as is normally done, and not six months.”

The on-line petition went live on 4 December 2020 and ended on 21 January 2021.

An extract from the draft minutes of Council is set out below:

“6. PETITION - TAXI LICENSING ARRANGEMENTS - APPEARANCES BEFORE THE LICENSING COMMITTEE AND EXTENSION TO THE BTEC DEADLINE WBC21-007.

The Council received a report on a petition seeking the Borough Council to “implement a system wherein a licensed taxi driver has the opportunity to appear before a Committee and to make necessary adjustments for drivers due to the Covid pandemic’. The petition had been signed by 438 confirmed signatories and 66 unconfirmed signatories and was presented at the meeting. The Mayor welcomed Antony Schiller, representative for the petitioners, to the meeting.

Mr Schiller spoke in support of the petition, and the request to reduce the extent to which applications for licences were determined under authority delegated to Officers. It was noted that the petition also sought an extension for the deadline given to drivers to take the BTEC exam and an extension for licences from 6 months to one year, noting the MOT extensions awarded by the Government. Members were invited to ask questions of the petitioner before moving to the debate.

The Council was advised that a report proposing changes to the scheme of delegations had been due to be considered by the Licensing Committee in January 2021. The report, which had recommended changes to the scheme of delegations to allow certain applications to be determined by the Taxi Licensing Sub-Committee, had, however, been deferred in light of the petition. In regard to request to extend the deadline for the BTEC qualification, it was noted that the issue had been addressed and that the Licensing Committee had recently agreed to extend the deadline from 31 March 2021 to 31 March 2023. The question of extending the licence period had also been addressed and accordingly the only outstanding issue raised in the petition was the extent of the scheme of delegations, which was scheduled to be determined at the next meeting of the Licensing Committee.

Petition – Taxi Licensing Arrangements

The Mayor thanked Mr Schiller for attending the meeting on behalf of the Petitioners and advised that, in view of the details set out in the report and the comments of Members of the Council, the Council was being asked to note the comments of Officers and agree that the matter should be referred to the next meeting of the Licensing Committee.

RESOLVED

- That (i) the Officer comments set out in the report be noted; and
- (ii) the points raised by the Petition be referred to the next meeting of the Licensing Committee.”

PETITION – TAXI LICENSING ARRANGEMENTS

Executive Summary

The Council has received a petition which asks the Council to *“Implement a system wherein a licensed taxi driver has the opportunity to appear before a committee and to make necessary adjustments for drivers due to the COVID pandemic.”*

In accordance with the Council’s arrangements for petitions, the matter has been referred for consideration by Full Council.

Recommendations

The Council is requested to consider the petition and determine accordingly.

Background Papers: None.

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Date Published: 5 February 2021

1.0 Introduction

- 1.1 A petition has been received which asks the Council to *“Implement a system wherein a licensed taxi driver has the opportunity to appear before a committee and to make necessary adjustments for drivers due to the COVID pandemic.”* The petition has been received through the Council’s online e-petition scheme and contains 438 confirmed signatories and 66 unconfirmed signatories.
- 1.2 The number of signatures exceeds the threshold required for a petition to be referred to a meeting of Full Council and accordingly the Petitioner or their nominee has been invited to present the petition at Council.
- 1.3 The petition has been submitted in the following terms:

“Implement a system wherein a licensed taxi driver has the opportunity to appear before a committee and to make necessary adjustments for drivers due to the COVID pandemic.”

At the last full council meeting, the comments from the legal and democratic services manager may have given the impression to council members that drivers do not want a committee-based system and would prefer the current system in place. We, the undersigned, would like to reaffirm our preference for a system where a driver has the opportunity to appear before the licensing committee and we would fully support a change in WBC licensing policy and scheme of delegation of authorities to allow it. Furthermore, the taxi trade has suffered greatly due to COVID-19 and while we fully appreciate the steps Licensing took during these times, we would also like to request two more changes. Taking the BTEC exam is an additional cost. Many drivers are not working at the moment and their careers remains uncertain. Thus we are petitioning WBC to grant an extension to the BTEC deadline. Secondly, some drivers have been issued licenses for six months due to their MOT, and although the government has granted MOT extensions, drivers have not been given extra time on their license. We request that licenses should be issued for a year, as is normally done, and not six months.”

- 1.4 The on-line petition went live on 4 December 2020 and ended on 21 January 2021.

2.0 Petitions Scheme

- 2.1 As the number of signatories exceeds 400, the petition falls to be debated at Full Council. In accordance with the Council’s scheme for dealing with petitions, the petitioner has been invited to attend the meeting and present the petition. The presentation of a petition is limited to not more than three minutes, and should be confined to reading out, or summarising, the purpose of the petition, indicating the number and description of signatories, and making supporting remarks relevant to the petition.
- 2.2 Following the presentation, Members will have the opportunity to ask questions of the petitioner. Thereafter, the Council will discuss the petition and determine what action, if any, is to be taken.

3.0 Officer Comments

- 3.1 A report proposing changes to licensing delegations was due to be considered at the Licensing Committee on 19 January 2021. This item was deferred by the Licensing Committee, and will now be considered at the next Licensing Committee meeting on 9 March 2021. The report takes account of discussions on this matter at the Licensing Committee on 6 October 2020 and Council on 15 October 2020. It recommends changes to the licensing delegations so that certain applications are reported to the Taxi Licensing Sub-Committee for determination.

Petition – Taxi Licensing Arrangements

- 3.2 The Petition asks the Council to extend the deadline by which drivers should have completed a BTEC on the role of the professional taxi and private hire driver. The deadline previously agreed by Council for this was 31 March 2021. However, as result of the COVID-19 pandemic, the Licensing Committee (at its meeting on 19 January 2021) extended the deadline until 31 March 2023.
- 3.3 The Petition also asks that licences should be issued for a year, not six months. As a result of remote working during periods of lockdown, the standard licence plates and badges are not issued when a licence is renewed. Instead, letters are sent which extend the “expired” licence by six months. When the lockdown ends, standard licence plates and badges are issued in the usual way. These replace the letters and run for the normal twelve months. Currently, there are approximately 30-40 licences subject to this procedure. These will be dealt with as a priority when the lockdown ends.

4.0 Implications

Financial

- 4.1 None

Human Resource/Training and Development

- 4.2 None

Community Safety

- 4.3 None

Risk Management

- 4.4 None

Sustainability

- 4.5 None

Equalities

- 4.6 None

Safeguarding

- 4.7 None

5.0 Conclusions

- 5.1 The outstanding issue raised in the petition is the extent to which applications are determined under delegated authority. This is due to be considered by the Licensing Committee on 9 March 2021, with any recommended changes being reported to Council on 8 April 2021. The views expressed in the petition can be considered as part of this process.

REPORT ENDS