

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.

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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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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:-

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“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 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.

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Safeguarding

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