

LICENSING REGULATORY COMMITTEE

Delegation of Refusal of Hackney Carriage and Private Hire Driver Licences 7th January 2016

Report of the Chief Officer (Governance)

PURPOSE OF REPORT

At the request of a member, to enable the Committee to consider the delegation of decisions to refuse the grant of a hackney carriage or private hire driver's licence.

This report is public

RECOMMENDATION

1. That the Scheme of Delegation be amended to authorise the Chief Officer (Governance) and the Licensing Manager to refuse new applications for hackney carriage or private hire driver licences, where satisfied that the applicant is not a fit and proper person to hold a licence.

1.0 Introduction

- 1.1 The Committee's Scheme of Delegation to Officers delegates authority "to grant and issue any licence, registration or other permission under any legislation within the terms of reference of the Licensing Regulatory Committee, unless there are any adverse representations or other reasons why the officer considers it appropriate to refer the matter to the Committee. This does not include authority to refuse a licence".
- 1.2 It has been suggested by a Member as follows: "In the interests of streamlining the work of the committee and reducing the deficit, I wonder if it would be reasonable to delegate officers to deal with all driver's licence applications - but provide that a driver has a right of appeal to the committee within 21 days if he/she does not accept the officer decision. This would reduce (to some extent) the number of applications that have to be brought before the committee - and hence reduce admin costs for the licensing service."
- 1.3 This report enables the Committee to consider that suggestion.

2.0 Proposal Details

- 2.1 Currently, where a driver on first application declares a number of convictions which means that to grant a licence would be contrary to the Committee's guidelines, the Licensing Manager advises the applicant that officers cannot automatically grant a licence, but that the applicant may ask for the application to be considered by the Committee. The application is not therefore refused, but the onus is on the applicant to pursue the application.
- 2.2 It would be possible, as suggested, for the Committee to delegate to officers authority to refuse an application for a new driver's licence. This would mean that applicants would not have the option to have their application considered by the Committee. However, any appeal against the officer refusal would as a matter of law be to the Magistrates' Court, and not to the Committee.
- 2.3 As with any delegation, it would always be possible for officers to refer an application to Committee if they considered that the decision was one which should be taken by the Committee, rather than exercising the delegated authority. This would most likely be the case if an application were prima facie contrary to the Committee's guidelines, but officers felt that there were exceptional reasons to grant a licence, and this would be consistent with the provision in the scheme of delegation that officers may not issue a licence where there are adverse representations.
- 2.4 The proposed delegation could be achieved in the Scheme of Delegation by adding after the words set out in paragraph 1.1 above, the words, "save that authority is delegated to the Chief Officer (Governance) and the Licensing Manager to refuse new applications for hackney carriage or private hire driver licences, where satisfied that the applicant is not a fit and proper person to hold a licence".
- 2.5 Another option would be for the decision to be delegated to the Chief Executive in consultation with the chairman of the Committee. However, in order to document such a decision there would need to be a report and signing off process, similar to that currently used for urgent business decisions. There would therefore be no savings in terms of administrative costs (save for the costs of the application being considered by the Committee).
- 2.6 In writing this report, it has been assumed that the suggestion was intended to relate only to new applications, and not to renewals. Because of the requirement for licensed drivers to declare convictions and cautions as and when they arise, anything of concern is generally then reported to the Committee at the time to enable it to consider whether the licence should be suspended or renewed. On occasions this may coincide with the renewal of the licence, or a conviction may come to light only on renewal, so that the decision is whether or not to renew the licence rather than whether or not to suspend or revoke. On that basis, members may feel that a decision not to renew is similar to a decision to suspend or revoke, and should be taken by the Committee.

3.0 Details of Consultation

- 3.1 There has been no consultation. The report has been brought at the request of the Chairman following a suggestion from another member.

4.0 Options and Options Analysis (including risk assessment)

- 4.1 The options open to the Committee are to delegate to officers the authority to refuse new applications for hackney carriage and private hire driver licences, to delegate the decision to the Chief Executive in consultation with the Chairman, or to maintain the current position whereby only the Committee has authority to refuse new applications.
- 4.2 The officer preferred option is for the Scheme of Delegation to be amended to authorise the Chief Officer (Governance) and the Licensing Manager to refuse new applications for hackney carriage or private hire driver licences. The Local Government Act 1972 provides for delegation of decisions to Committees or to officers. The hybrid of delegation to an officer in consultation with an elected members is lawful, but is administratively burdensome, and would not be recommended by officers for routine decision making such as this.
- 4.3 Officers would recommend that the decision not to renew a driver's licence should remain with the Committee.

5.0 Conclusion

- 5.1 The Committee's views are sought.

CONCLUSION OF IMPACT ASSESSMENT (including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None directly arising from this report. Any decision to refuse a licence would be taken in the interests of public safety.
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LEGAL IMPLICATIONS

If officers were given delegated authority to refuse licences, arrangements would be put in place to enable the applicant to make oral representations prior to a decision being taken. There would be a right of appeal to the Magistrates' court against any decision to refuse a driver's licence.

FINANCIAL IMPLICATIONS

There would be a reduction in administrative costs and Committee time if decisions on new applications were delegated to officers. However, it is not possible to quantify this, as the number of new applications currently referred to the Committee varies from year to year.
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OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her capacity as the Chief Officer responsible for Licensing.

BACKGROUND PAPERS

None

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