



Committee and Date

Strategic Licensing
Committee

21st March 2012

Item

10

Public

USE OF DELEGATED POWERS FOR HACKNEY CARRIAGE AND PRIVATE HIRE LICENCE VEHICLE AND DRIVER APPLICATIONS

Responsible Officer Lynne Towers

Email: Lynne.towers@shropshire.gov.uk

Tel: 01939 237492

Summary

The Council's constitution gives delegated powers to officers with line management responsibility for Licensing to deal with matters of investigation and refusal of applications in respect of hackney carriage and private hire driver and vehicle licences. It has been the practice to refer applications that appear to officers, for instance, to be in breach of policy to the Licensing and Safety Sub Committee for decision. This report is to seek approval to change such practice and for members to confirm that, generally, all applications are dealt with by use of officer delegated powers.

Recommendations

- 2.1` The Licensing Team Leader (and those above her with line management responsibility) use delegated powers to investigate and take any such action as the officer considers appropriate (including refusal, revocation and suspension) in relation to any matter concerning a private hire or hackney carriage driver or vehicle licence, such action to include refusal of any new application..
- 2.2 That where the officer uses the delegated power referred to in 2.1 above then the procedure set out in 6 below be followed.

REPORT

Risk Assessment and Opportunities Appraisal

- 3.1 Where the council refuses to licence a hackney carriage vehicle the proprietor has the right of appeal to the Crown Court. All other appeals in relation to

hackney carriage vehicle and driver licences are, initially, to the Magistrates' Court.

Financial Implications

In reducing the number of Licensing and Safety Sub-Committee meetings a savings can be made in terms of preparation time for committee reports and attendance at the meeting by both Officers and Councillors. There will however be consequential cost implications related to the increase in officer time required to consider each application in accordance with the correct procedure and guidance.

Background

At its meeting on the 17th January 2012 members agreed that officers should use their delegated powers to refuse more, and in particular, in relation to applications concerning hackney carriage proprietors' licences. In relation to other cases it has been the practice to refer applications (and other matters) generally that appear to be against policy to the Licensing and Safety Sub-Committee for decision. This report is to seek members approval for the use of officer delegated powers in relation to all matters (including applications) related to hackney carriage and private hire driver and vehicle licences.

With the influx of 'out of area' applications for both drivers and hackney carriage vehicle licences there has been an increased number of committee meetings. Reports have been submitted to the Licensing and Safety Sub-Committee to deal with applicants who have either failed to meet the criteria as set in our hackney carriage and private hire policy or who live outside the area and have applied for hackney carriage licences. In the 5 month period from Sept 2011 to January 2012 there have been an additional 14 Licensing and Safety Sub-Committee meetings over and above the scheduled meetings.

With the introduction of the 'Out of Area' policy that was agreed by Council on 8th February, it is now considered to be more efficient for officers to use their delegated powers when dealing with these applications.

The Council's constitution allows for delegated responsibility to be given to officers to refuse, suspend or revoke any licence, within legal constraints.

The relevant guidelines will be used to assist Officers in their decision-making process so that the consistency of the decision made, is maintained. The guidelines take account matters for dealing with new applications as well as renewal applications for an existing private hire / hackney carriage driver's licence and a private hire operators licence and also when considering whether to suspend or revoke an existing licence.

If officers are given delegated powers to deal with new driver and vehicle applications, the number of referrals to Licensing and Safety Sub-Committee will be greatly reduced. However, where an officer considers it necessary or appropriate, a case will be referred to the committee for consideration and decision

Matters of procedure

The officer deciding a matter will be making quasi-judicial decision. There is a right of appeal to a court. The officer making the decision will carry out the delegated power in consultation with a legal advisor and any other officer where he/she considers it appropriate.

The officer must of course act fairly. Before any decision is reached the licence holder must be informed of the case against him or her and be given an opportunity of making representations.

It is open to a local authority to allow only written representations and this is how the officer dealing with the matter will deal with each case. The officer will write to the relevant licence holder stating the case. The letter will set out all the relevant information and give to the licence holder a reasonable time (usually two weeks) to reply in writing with his or her representations.

Following receipt of the licence holder's representations, or upon the expiration of the time limit for replies, the officer (unless she seeks further information as a result of the representation) shall make a decision taking all relevant matters into account. Before making the decision on any application that is adverse to the applicant/licence holder the decision making officer shall consult with a legal officer and a more senior Licensing line manager. Such consultation shall take place at specially convened meetings comprising all three officers.

Where the officer considers it necessary or appropriate, a case will be referred to the Licensing and Safety Sub Committee for consideration and decision.

Conclusion

In allowing officers to use their delegated powers to determine applications, the speed of processing applications will be improved.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Hackney Carriage and Private Hire Licensing Policy

Out of Area policy

Local Government (Miscellaneous Provisions) Act 1976

Human Rights Act Appraisal:- Under Article 6 of the European Convention on Human Rights everyone is entitled to a hearing within a reasonable time by an independent and impartial tribunal; because there is a right of appeal to a magistrates Court Article 6 is not breached. Under Article 1 everyone is entitled to the peaceful enjoyment of their possessions however, the relevant UK legislation is compliant with the convention rights and Article 1 does not affect the subject matter of this report.

Cabinet Member (Portfolio Holder)

Councillor Steve Charmley

Local Member

Covers all areas of Shropshire

Appendices

Appendix 1 (to be included following consultation at the taxi forums in March)