

<b>Report to:</b>	<b>PUBLIC PROTECTION SUB-COMMITTEE</b>
<b>Relevant Officer:</b>	Mark Marshall, Licensing Enforcement and Health and Safety Manager
<b>Date of Meeting</b>	15 August 2017

## **DELEGATION OF POWERS - SUSPENSION AND REVOCATION OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCES**

### **1.0 Purpose of the report:**

- 1.1 To consider amending the existing delegation which permits the Head of Licensing to suspend a hackney carriage/private hire driver's licence following consultation with the Chairman/Vice-Chairman.

### **2.0 Recommendation(s):**

- 2.1 To approve the amendment to the delegation as outlined in Section 5.8.

### **3.0 Reasons for recommendation(s):**

- 3.1 Licensed drivers can be responsible for transporting vulnerable passengers. It is important for the protection of the public that only fit and proper persons are licensed. It is

- 3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

- 3.2b Is the recommendation in accordance with the Council's approved budget? Yes

- 3.3 Other alternative options to be considered:

The Sub-Committee could decline to amend the existing delegation.

### **4.0 Council Priority:**

- 4.1 The relevant Council Priority is "The Economy: Maximising growth and opportunity across Blackpool"

## **5.0 Background Information**

- 5.1 The Local Government (Miscellaneous Provisions ) Act 1976 provides that the Council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or private hire vehicle on any of the following grounds:
- (a) That he has since the grant of the licence:
    - (i) Been convicted of an offence involving dishonesty, indecency or violence; or
    - (ii) Been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this part of this Act; or
  - (b) Any other reasonable cause.
- 5.2 This suspension/revocation normally takes effect at the end of the period of 21 days beginning on the day on which the notice is given to the driver.
- 5.3 The Road Safety Act 2006 added the power for the suspension/revocation to take immediate effect in certain circumstances, namely where it was in the interests of public safety.
- 5.4 In January 2008 the Licensing Committee agreed the following delegation:
- For the Head of Legal and Democratic Services (in consultation with the chair or vice-chair) to have delegated authority to suspend a licence until the next Public Protection Sub-Committee meeting.
- 5.5 This delegation has been subsequently updated so that the delegation is to the Head of Licensing or in their absence the Licensing Enforcement and Health and Safety Manager.
- 5.6 Changes to this delegation are now required as recent case law has confirmed that a Council cannot use the suspension of a hackney carriage or private hire driver's licence as holding operation pending further investigation. The Court held that if a Council suspends a licence "it must do so by way of a substantive decision on the fitness of the driver to hold the licence, after giving the driver a proper opportunity to state his case, not merely as a means by which to maintain a position pending the final outcome of the criminal proceedings."
- 5.7 Firstly, it is proposed that due to changes in the officer structure that the power now be allocated to the Licensing Enforcement and Health and Safety Manager.

5.8 It is proposed therefore that the procedure now works as follows:

That in the event of a serious concern being raised regarding the fitness of a driver to hold a Hackney Carriage or Private Hire Drivers' Licence the Licensing Enforcement and Health and Safety Manager be tasked in the first instance with investigating the issue. The concern could take the form of convictions, police information or complaints from the public.

The driver be invited to a formal interview to discuss the area of concern with the Licensing Enforcement and Health and Safety Manager and either the Chairman or Vice-Chairman of the Public Protection Sub-Committee. In the event of the driver refusing or being unable to attend the Licensing Enforcement and Health and Safety Manager would still be authorised to consider the issue.

Following consultation with the Chairman or Vice-Chairman of the Public Protection Sub-Committee the Licensing Enforcement and Health and Safety Manager would then consider which of the following three courses of action is necessary and proportionate:

- i) That the issue is serious enough to require the revocation of the licence with immediate effect.
- ii) That while there is a case to answer the issue is not urgent and can therefore be referred for consideration by the next meeting of the Public Protection Sub-Committee or a special meeting of that Sub-Committee.
- iii) That no action be taken at present, this does not preclude further investigation of the issue.

Where the Licensing Enforcement and Health and Safety Manager acts to revoke a licence, they will bring a report to the next Public Protection Sub-Committee and if approved a review of the use of this delegation will take place in 12 months time.

5.9 Members are reminded that there is a separate procedure for the suspension of vehicle licences where the vehicle is dangerous or unsuitable.

5.10 Does the information submitted include any exempt information? No

5.11 **List of Appendices:**

None.

**6.0 Legal considerations:**

6.1 None.

**7.0 Human Resources considerations:**

7.1 None.

**8.0 Equalities considerations:**

8.1 None.

**9.0 Financial considerations:**

9.1 None.

**10.0 Risk management considerations:**

10.1 None.

**11.0 Ethical considerations:**

11.1 None.

**12.0 Internal/ External Consultation undertaken:**

12.1 None.

**13.0 Background papers:**

13.1 None.