

<b>Report to:</b>	<b>PUBLIC PROTECTION SUB-COMMITTEE</b>
<b>Relevant Officer:</b>	Lee Petrak, Trading Standards and Licensing Manager
<b>Date of Meeting</b>	8 December 2020

## **DELEGATION UNDER SECTION 61 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

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

- 1.1 To consider the delegation of powers to the Trading Standards and Licensing Manager under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 (the Act). This Section relates to the powers to suspend and revoke a driver's Licence.

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

- 2.1 That the Trading Standards and Licensing Manager be authorised to suspend driver Hackney Carriage or Private Hire driver Licences in the circumstances set out in this report.

### **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.

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:**

1. Make the proposal subject to amendments before their approval
2. Determine that all decisions to suspend hackney carriage or private hire driver licences remain the responsibility of the Public Protection Sub-Committee.

#### **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 Members will be aware that under the provisions of section 61 of the Act the Council has the power – in certain circumstances – to suspend or revoke drivers’ (hackney carriage and private hire) licences.

5.2 The relevant parts of sub section 1 of section 61 state:

“(1).... a district council may suspend or revoke or .... refuse to renew the Licence of a driver of a hackney carriage or a 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;

(aa) that he has since the grant of the Licence been convicted of an immigration offence or required to pay an immigration penalty; or

(b) any other reasonable cause.”

5.3 When a council suspends or revokes or refuses to renew a Licence then they have to give the driver notice of the reason for the decision. Ordinarily a suspension or revocation takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If there are public safety concerns then a council may choose to suspend or revoke with immediate effect. Any driver aggrieved by a decision of a district council may appeal to a magistrates’ court.

5.4 The usual scenario where the section 61 power would be used is when dealing with matters that call into question the fitness and propriety of a driver and the facts have been examined by a committee who take steps to suspend or revoke the Licence. It is clearly entirely appropriate that members should make these decisions. There is no proposed change to these procedures.

5.5 However there are administrative issues that arise from time to time that could impact on the safety of the travelling public especially if the Council is deficient of documentary proof to show the driver is “Fit and Proper”. Examples include:

- *DBS (Disclosure and Barring Service) checks* - On occasions a DBS may be due

for renewal but the Licence may have a period of time to run before it expires i.e. Licence expires 1<sup>st</sup> July 2021 but the DBS expires 1<sup>st</sup> July 2020. In such circumstances the driver would be lawfully entitled to drive until the expiry of his licence. In such circumstances the Council would want to suspend the licence until an up to date DBS check was produced. Advance notification is given by the department to drivers to produce the documentation, so a suspension in this case will only follow a formal request that has possibly been ignored or not acted on.

- *Medicals*- Similar circumstance may arise where a medical expires but the licence is still valid, the department would seek to make advance requests for the document but again suspensions where medicals have expired may on occasions be necessary.

5.6 The Licensing Service spends a large amount of officer time on the administration processes involved in keeping Licence Holders up to date with DBS and Medical checks. This includes phone calls, emails and letters to Licence Holders in an effort to ensure they meet the criteria of maintaining their Licences. The Licensing Service propose to introduce a model of working as laid out in paragraph 5.5. In the circumstances explained above (para 5.5) the Trading Standards and Licensing Manager would be able to suspend licences by the Sub-Committee expressly granting the power to suspend in these circumstances. The suspensions if carried out would need to be done in writing setting out the reasons for the suspension and for the action to have any meaningful impact the suspension would need to take immediate effect - again an explanation of the reasons for the immediacy of the action would be required.

5.7 The examples above are not exhaustive but Members are asked to consider the proposal of formally delegating powers to the Licensing Manager to suspend a driver's Licence when administrative requirements have not been fulfilled. This power will not extend to matters which relate to general conduct or behaviour and will be confined to administrative matters only.

5.8 Does the information submitted include any exempt information? No

**List of Appendices:**

None

**6.0 Legal considerations:**

6.1 Local Government (Miscellaneous Provisions Act) 1976

6.2 Representative of Head of Legal Services will be present at the meeting to advise the Sub-Committee.

**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