

Report to:	PUBLIC PROTECTION SUB-COMMITTEE
Relevant Officer:	Lee Petrak, Trading Standards and Licensing Manager
Date of meeting:	23 April 2024

Delegation Under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976

1.0 Purpose of the report

- 1.1 To consider delegating 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 Hackney Carriage or Private Hire driver licences where they are not satisfied that the licence holder has proved that they are a fit and proper person because administrative requirements have not been met as outlined in paragraphs 6.5-6.7.

3.0 Reason for recommendation(s)

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

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

3.3 Is the recommendation in accordance with the Council's approved budget? Yes

4.0 Other alternative options to be considered

- 4.1 Make the proposal subject to amendment before approval.
- 4.2 Determine that all decisions to suspend Hackney Carriage or Private Hire driver licences remain the responsibility of the Public Protection Sub-Committee.

5.0 Council priority

- 5.1 The relevant Council priority is 'The economy: Maximising growth and opportunity across Blackpool.'

6.0 Background and key information

6.1 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 Hackney Carriage and Private Hire driver licences.

6.2 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 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.”

6.3 When a Council suspends, 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 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 magistrate’s court.

6.4 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. In certain circumstances, the Trading Standards and Licensing Manager may need to use the existing delegated powers to revoke a licence. It is clearly entirely appropriate that members or where appropriate the Trading Standards and Licensing Manager should make these decisions. There are no proposed changes to these procedures.

6.5 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 – Blackpool Council’s Hackney Carriage and Private Hire Licensing Policy was updated in 2022, following a review of the policy in line with the Statutory Taxi and Private Hire Vehicle Standards. As part of the changes to the policy DBS checks were increased in

frequency to once every 6 months for all drivers, as recommended by the Standards. This change has meant that DBS checks can frequently expire despite the licence still having a period to run before that expires i.e. DBS expires 1 March 2024 but the licence does not expire until the 1 September 2024. In such circumstances, the driver would lawfully be entitled to drive until the expiry of their licence. In the majority of cases, the Licensing Service can check a driver's DBS status via the DBS Update Service, however 11.7% of our licensed drivers are not currently subscribed to the update. This equates to an average per month of approximately 19 DBS checks that need to be completed manually. For those drivers that still require a manual certificate advance notification to apply/produce a new DBS certificate is given a minimum of 6 weeks before the expiry of their existing DBS certificate. On average approximately 50% of drivers, either ignore or do not act upon that request. The Licensing Service would propose a final written request is sent to the driver to produce the document within 7 days following the expiry of the existing certificate. Failure to comply with that request would result in suspension of the licence.

- Medicals – Similar circumstances may arise where a medical certificate expires but the licence is still valid, the Licensing Service again make advanced requests for the document. The Licensing Service would propose a final written request to the driver to produce the document within 7 days following the expiry of the existing certificate. Failure to comply would result in suspension of the licence.

6.6 The Licensing Service spends a large amount of officer time on the administration process 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 proposes to introduce a model of working as laid out in para 6.5. In 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 suspensions and informing the recipient that in accordance with Section 2 of Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022, the decision will be recorded on the National Register of Taxi Licence Refusals, Revocations, and Suspensions (NR3S). For the action to have any meaningful impact the suspension would generally need to take immediate effect. An explanation of the reasons for the immediacy of the action would be required. In line with other revocations and suspensions these would be reported to the Public Protection Sub-Committee. If the documentary evidence continued to remain outstanding the case could be referred to the Public Protection Sub-Committee to consider revocation.

6.7 The examples above are not exhaustive but Members are asked to consider the proposal of formally delegating powers to the Trading Standards and 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.

6.8 Does the information submitted include any exempt information? No

7.0 List of appendices

7.1 None.

8.0 Financial considerations

8.1 None.

9.0 Legal considerations

9.1 Local Government (Miscellaneous Provisions) Act 1976.

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

10.0 Risk management considerations

10.1 None.

11.0 Equalities considerations and the impact of this decision for our children and young people

11.1 None.

12.0 Sustainability, climate change and environmental considerations

12.1 None.

13.0 Internal/external consultation undertaken

13.1 None.

14.0 Background papers

14.1 None.