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**Assistant Director, Governance and
Monitoring**

Julie Muscroft

Governance and Democratic Services

Civic Centre 3

High Street

Huddersfield

HD1 2TG

Tel: 01484 221000

Direct Line: 01484 221000

Fax: 01484 221707

Please ask for Jenny Bryce-Chan

Email: jenny.bryce-chan@kirklees.gov.uk

Friday 8 January 2016

Notice of Meeting

Dear Member

Licensing and Safety Committee

The **Licensing and Safety Committee** will meet in the **Reception Room - Town Hall, Huddersfield** at **10.00 am** on **Monday 18 January 2016**.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft", on a light-colored background.

Julie Muscroft

Assistant Director of Legal, Governance and Monitoring

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

The Licensing and Safety Committee members are:-

Member

Councillor Ken Smith (Chair)
Councillor Mahmood Akhtar
Councillor Karen Allison
Councillor Bill Armer
Councillor Christine Iredale
Councillor Marielle O'Neill
Councillor Andrew Palfreeman
Councillor Carole Pattison
Councillor Amanda Pinnock
Councillor Hilary Richards
Councillor David Ridgway
Councillor Ken Sims
Councillor Mohan Sokhal
Councillor Michael Watson
Councillor Amanda Stubley

When a Licensing and Safety Committee member cannot be at the meeting another member can attend in their place from the list below:-

Substitutes Panel

Conservative

D Bellamy
N Patrick
J Taylor
G Wilson

Green

A Cooper
R Barraclough

Independent

T Lyons
C Greaves

Labour

E Firth
S Hall
K Rowling
G Turner
S Ullah

Liberal Democrat

C Burke
J Lawson
A Marchington
A Pinnock
P Scott

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

This is where Councillors who are attending as substitutes will say for whom they are attending.

2: Minutes of Previous Meeting

1 - 4

To approve the minutes of the meeting of the Panel held on 4 November 2015.

3: Interests

5 - 6

The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the items or participating in any vote upon the items, or any other interests.

4: Admission of the Public

Most debates take place in public. This only changes when there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the Agenda which are to be discussed in private.

5: Deputations/Petitions

The Committee will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

6: Public Question Time

The Committee will hear any questions from the general public.

7: Constitution - Revised Scheme of Delegation

7 - 12

This report is for Members to note proposals to additions and amendments to the scheme of delegation in relation to the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

Contact: Catherine Walter, Local Land Charges and Highways
Registry Manager Tel: 01484 221000

8: Constitution - Taxi and Private Hire Vehicles: Delegation of Enforcement Powers

13 - 18

This report is for members to note additions and amendments to the scheme of delegation in relation to enforcement powers under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

Contact: Catherine Walter, Local Land Charges and Highways
Registry Manager Tel: 01484 221000

Contact Officer: Jenny Bryce-Chan

KIRKLEES COUNCIL

LICENSING AND SAFETY COMMITTEE

Wednesday 4th November 2015

Present: Councillor Ken Smith (Chair)
Councillor Mahmood Akhtar
Councillor Karen Allison
Councillor Bill Armer
Councillor Christine Iredale
Councillor Marielle O'Neill
Councillor Carole Pattison
Councillor Amanda Pinnock
Councillor Hilary Richards
Councillor David Ridgway
Councillor Mohan Sokhal
Councillor Michael Watson

Apologies: Councillor Amanda Stubbley

- 1 Membership of the Committee**
Councillor Gemma Wilson substituted for Councillor Andrew Palfreeman
Apologies from Councillor Amanda Stubbley
- 2 Minutes of Previous Meeting**
The minutes of the meeting of the Committee held on 11 February 2015 were approved as a correct record.
- 3 Interests**
No interests were declared
- 4 Admission of the Public**
The Committee considered the question of the exclusion of the public and determined that all the items be taken in public session.
- 5 Deputations/Petitions**
No deputations or petitions were received
- 6 Public Question Time**
No questions were asked

7 Revised Gambling Policy - Statement Of Principles

The Committee considered a report seeking adoption of the Gambling Policy which is a statutory requirement that must be revised every 3 years. The Committee was advised a recent consultation exercise did not attract any response. Members were requested to recommend the policy to Full Council.

RESOLVED -

(1) that the draft Revised Gambling policy be recommended to Council for approval

(2) that if anything significant is raised as part of the consultation process then a special meeting of the Licensing and Safety Committee will be convened to consider the issues before the policy is submitted to Full Council.

8 Taxi & Private Hire Licensing - Driver Conditions

The Committee consider a report in respect of driver conditions, which had been revised as part of the work being undertaken by the Council, post the Casey Report. Trade representatives were also in attendance and raised concerns about aspects of the proposed revisions, namely, that the words 'exceptional circumstance' be included at point 6; and the removal of the requirement for drivers to carry their insurance document with them while at work. Officers recommended that Committee approve the proposed changes and authorise the implementation with immediate effect.

RESOLVED - That the wording at point 6 of the policy be revised to include the words 'exceptional circumstances'.

That the revision in respect of drivers carrying insurance documents while at work not be accepted at this stage but will be revisited when it had been considered by the West Yorkshire Combined Authority.

9 Licensed Vehicle Age Limits & Insurance total loss vehicles (write offs)

The Committee considered a report in respect of Licensed Vehicle Age Limits & Insurance total loss vehicles (write offs). Officers recommended that Committee not make any changes at this time while the matter is being looked at by the Combined Authority.

RESOLVED - That no changes be made at this time until guidance is received from the West Yorkshire Combined Authority.

10 Assessment Criteria and Convictions Policy for Licensed Drivers (1)

The Committee was advised that the policy was adopted one year ago, with further amendments made in February 2015. The new amendments being brought before Committee included the addition of new offences, timescales, and a chapter specific to children and on complaints. The revised policy had been out for consultation. Officers recommended that Committee consider and authorise the revised policy for use with immediate effect.

RESOLVED - that the revision to the policy be agreed for implementation with immediate effect.

11 Taxi and Private Hire Licensing - Fees

The Committee consider a report seeking approval for new fees for taxi and private hire licensing. Trade representatives were in attendance and raised objections to the charges being proposed, in that they felt they were excessive, and submitted a sign petition opposing the fees.

RESOLVED - that the new fees structure be approved for implementation with effect from 13 November 2015.

12 Briefing Paper - Rossendale

The Committee considered a briefing paper at the request of the Chair on the current status nationally of issues arising out of Rossendale.

RESOLVED - that the briefing paper be noted.

13 Briefing Paper - UBER

The Committee considered a briefing paper at the request of the Chair on the current status nationally of UBER.

RESOLVED - that the briefing paper be noted.

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KIRKLEES COUNCIL					
COUNCIL/CABINET/COMMITTEE MEETINGS ETC					
DECLARATION OF INTERESTS					
Licensing and Safety Committee					
Name of Councillor					
Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an "Other Interest")	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest		

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

- (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
- (b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.



Name of meeting Licensing and Safety Committee
Date 18th January 2016

Title of report: Constitution - Revised Scheme of Delegation

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not Applicable
Is it in the Council's Forward Plan?	Yes
Is it eligible for "call in" by Scrutiny?	Not Applicable
Date signed off by Director & name	Jacqui Gedman - 23.12.15
Is it signed off by the Director of Resources?	David Smith - 30.12.15
Is it signed off by the Assistant Director - Legal, Governance & Monitoring	Julie Muscroft - 30.12.15
Cabinet member portfolio	Cllr Steve Hall Planning, Highways and Open Spaces

Electoral wards affected ALL
Ward councillors consulted: ALL

Public or private: Public

1 PURPOSE OF REPORT

- 1.1 To request Members to note additions and amendments to the scheme of delegation in relation to the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 1.2 A verbal report will be given at Council with any comments and/or any recommendations made by the Corporate Governance & Audit Committee which is meeting shortly prior to Council but with insufficient time for a report with their comments to be written.

2 KEY POINTS

BACKGROUND

- 2.1 The prime aim of licensing of vehicles, drivers and operators is protecting public safety and ensuring that those issued with a hackney carriage/private hire drivers licence (badge) in Kirklees are fit and proper persons to hold them.
- 2.2 Historically the power to refuse applications for Hackney Carriage or Private Hire Drivers Licences or revoke or suspend such licences has remained a delegated function to the Regulatory Panel a subcommittee of the Licensing & Safety Committee.
- 2.2 The proposed amendments to the scheme include that the power to suspend, revoke, grant or refuse to renew licences under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 be delegated to the Director of Economy, Skills and the Environment.

3 THE ISSUES

- 3.1 The Regulatory Panel usually meets on a monthly basis depending on the number of matters to put to it. This can result in a number of applicants and existing drivers having to wait on some occasions for a number of weeks or even months for their turn. In some instances, if an existing driver this can impact on their ability to work if they have had their badge suspended pending their appearance before the Regulatory Panel.
- 3.2 Both the Jay and Casey Reports about Rotherham Council into Child Sex Exploitation noted the role of taxi drivers was a “common thread” across England. Following these reports the licensing team in Kirklees, have been working with the other licensing departments of the Combined Authority district to establish some common licensing standards and processes. This work commenced at the request of the Leaders of each district in January this year.

Some of the key issues currently being worked on towards implementation by the Combined Authority are the following:-

- Safeguarding - child sexual exploitation- human trafficking - a common minimum training standard for the trade.
- Driver application process - improved common minimum standards - English comprehension - common minimum standards for new applicants, it would only apply to existing licence holders where there was an identified need with the focus being on training and development within an agreeable timeframe.
- Convictions Policy and Convictions Criteria - standard criteria be adopted.
- Decision making-scheme of delegation - all local Authorities introduce a scheme of delegation to Officers for decision making.
- Private Hire Operator Conditions - a common standard across the Combined Authority.
- Private Hire Vehicle Conditions - all West Yorkshire licensed vehicles, have similar recognisable door livery which deforms when removed.
- Common Byelaws - Hackney Carriages - a common standard across the Combined Authority.

- West Yorkshire Centralised Licensing Database - maintaining a centralised record of licence applications, suspensions, revocations to enable greater checking at the point of revocation.
- Authorised Officer status - Licensing and Enforcement Officers able to carry out inspection and suspension powers on a vehicle licensed by any WY Authority, through the scheme of delegation of powers being coordinated across all WY Authorities to enable more efficient enforcement action.

3.3 In January 2015 Council amended the scheme of delegation in order to streamline the process and gave additional powers of delegation to the Director of Economy, Skills and the Environment to refuse, revoke or suspend an application for a grant or renewal of a Hackney Carriage and Private Hire Vehicle Drivers Licence where there are concerns regarding to the safety and well-being of children, young people and vulnerable adults.

3.4 Kirklees Council is the only Authority from the Combined Authority area, to maintain and run a Regulatory Panel. This now needs to be changed to achieve consistency of decision making and standards across the districts. As mentioned at 3.2 above, each Authority will also adopt a common minimum standards assessment and convictions criteria, which will ensure that decision making for licensed drivers is consistent across the Combined Authority area.

3.5 Delegating decision making to officers, would also address concerns that matters which relate to conduct on the part of an applicant or existing driver, could be dealt with in an expeditious manner in order to achieve resolution for the applicant and also to maintain the Council's safeguarding and public protection obligations, to young and vulnerable members of the public, who may use hackney carriage and private hire vehicles. Currently some applicants and renewal applications may be waiting for up to three months, to appear before the Regulatory Panel. A delegation to officers will vastly improve waiting times.

4. THE AMENDMENTS

4.1 The proposed change to the delegation is that Council amend the Council's constitution under the headings -

“Responsibility for Functions” - Section B “Regulatory Panels” to remove item 2 of the Terms of reference - “Power to licence drivers of hackney carriages and private hire vehicles.”

That Council Section F of Part 3 of the Constitution, (Scheme of Delegation to Officers), Director of Economy, Skills and Environment) H, Licensing Matters, Non-Executive Function 1 (i) additional delegated authority is given to the Director of Economy, Skills and Environment to refuse, an application for a grant or renewal of a Hackney Carriage or Private Hire Vehicle Drivers Licence and to suspend or revoke a licence, under the relevant legislation.

5 RESOURCE IMPLICATIONS

5.1 There are no significant resource issues and there may be some marginal savings in costs associated with maintaining a Regulatory Panel.

6 LEGAL IMPLICATIONS

6.1 A District Council has a duty under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 to licence Hackney Carriage and Private Hire Operators, Vehicles and Drivers. The Council must not grant a licence unless it is satisfied that the applicant is a fit and proper person to hold a licence.

6.2 The Local Government (Miscellaneous Provisions) Act 1976 provides at Section 61 (1) (b) that a District Council may suspend, revoke or refuse to renew a 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

(iii) any other reasonable cause.

7 HUMAN RIGHTS

7.1 Local Authorities powers, can significantly affect an individual's livelihood, for example, the licensing of taxis and private hire vehicles and drivers. Refusal or revocation of a licence is likely to amount to the 'determination' of 'civil rights and obligations' with the result that Article 6(1) of the Human Rights Act 1998 is engaged. The Council therefore has to ensure that anyone facing refusal, revocation or suspension is afforded a fair hearing within a reasonable time.

7.2 Any person aggrieved by an adverse decision does also have a statutory right of appeal against that decision to a local Magistrates Court.

8. CONSULTEES AND THEIR OPINIONS

8.1 Lead members were consulted on the proposal.

Licensing & Safety Committee

Governance & Audit Committee

9. OFFICER RECOMMENDATIONS AND REASONS

9.1 Licensing and Safety Committee are asked to consider the report; the reasons outlined in it and also consider the comments and recommendations from Corporate Governance & Audit Committee. Licensing and Safety Committee are then requested to approve the changes to the delegation scheme as outlined in this report and to delegate the authority to the Assistant Director, Legal Governance & Monitoring to make the appropriate amendments and any consequential changes to the Constitution.

10. Cabinet portfolio holder recommendation

The portfolio holder, Councillor Steve Hall, supports the proposed new system and advises that this will provide a consistent approach to the implementation of the policy and puts the safety of the travelling public first.

11. Contact officer and relevant papers

Catherine Walter, Licensing, Highways Registry and Local Land charges Manager

Telephone: (01484) 456868

Email - catherine.walter@kirklees.gov.uk

12. Assistant Director responsible

Paul Kemp

Assistant Director - Place

(01484) 221000

Email - paul.kemp@kirklees.gov.uk

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Name of meeting Licensing and Safety Committee
Date 18 January 2016

Title of report: Constitution - Taxi and Private Hire Vehicles:
 Delegation of enforcement powers

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not Applicable
Is it in the Council's Forward Plan?	Yes
Is it eligible for "call in" by Scrutiny?	Not Applicable
Date signed off by Director & name Is it signed off by the Director of Resources? Is it signed off by the Assistant Director - Legal, Governance & Monitoring	Jacqui Gedman - 30.12.15 <i>Paul Kemp for and on behalf of</i> David Smith - 31.12.15 Julie Muscroft - 30.12.15
Cabinet member portfolio	Cllr Steve Hall Planning, Highways & Open Spaces

Electoral wards affected ALL
Ward councillors consulted: ALL

Public or private: Public

1 PURPOSE OF REPORT

- 1.1 To request Members to note additions and amendments to the scheme of delegation in relation to enforcement powers under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 1.2 A verbal report of the recommendations and comments of the Corporate Governance & Audit Committee on this proposal will be given at Council. That Committee is meeting to consider the matters in this report shortly before full Council.

2 KEY POINTS

BACKGROUND

- 2.1.1 The primary aims of the licensing regime for vehicles, drivers, and operators are the protection of public safety and the provision of a safe and efficient taxi service. This involves ensuring that hackney carriage and private hire license holders are fit and proper persons.
- 2.1.2 Both the Jay and Casey Reports into Child Sex Exploitation in Rotherham noted that the role of taxi drivers was a “common thread” in many CSE cases. Following the publication of the Casey report, the licensing team in Kirklees have been working with the other licensing departments of the Combined Authority, to establish some common licensing standards and processes. This was at the express request of the Leaders of each Council in January this year and involves scrutinising each aspect of the licensing processes.
- 2.1.3 The Licensing & Safety Committee received a report in November 2015, explaining the effect of the Deregulation Act 2015 and in particular, concerns about the ability from 1 October 2015 for private hire operators to sub-contract to another licensed operator who may be licensed in another district. This report highlights some of the potential consequences of these changes and seeks approval by full Council for delegation of enforcement functions across West Yorkshire Authorities and the City of York to help to minimise concerns across the region.
- 2.1.4 We are also asking Council to agree to other authorities’ enforcement powers to be delegated to this authority. Other Councils are undertaking a similar exercise of delegation of enforcement powers across the West Yorkshire area.

2.2 THE ISSUES

- 2.2.1 The Licensing & Safety Committee has previously discussed the earlier recommendations of the Law Commission and Taxi & Private Hire licensing reform proposals. Objections were made to some of the changes, which it was felt, would dilute the professional standards of licensed drivers working in Kirklees or weaken the regulatory regime, in a way that may prejudice public safety.
- 2.2.3 The Deregulation Act 2015, received royal assent and the relevant provisions came into force on 1 October 2015. From the 1st October 2015, the Deregulation Act 2015, allows sub-contracting a Private Hire journey from within a licensing district to another licensed operator who may be based (and licensed) anywhere in England and Wales.
- 2.2.4 Section 11 (private hire vehicles: sub-contracting) inserts two new sections (55A and 55B) into the Local Government (Miscellaneous Provisions) Act 1976, in relation to the sub-contracting of bookings from one private hire vehicle operator to another.
- 2.2.5 The above is a major amendment to the 1976 Act affecting taxi and private hire drivers and operators and will have far reaching implications for private hire Operators, in relation to the sub-contracting of bookings from one private hire vehicle operator to another.

2.2.6 There is currently no detailed information or operational guidance on these deregulation measures available from the Government, Department for Transport or other organisations.

2.2.7 There is the additional problem of licensed hackney carriage drivers and vehicles from other authorities being able to move and work in a different authority, from which it is licensed through a Private Hire base.

2.3 The individual changes mean that:

2.3.1 Sub-contracting

This presents significant difficulties for the Council, in conducting its enforcement activities and potentially to the public, in terms of service standards and safety as:-

- Currently officers in this authority have no powers to conduct any enforcement activity on Taxis or Private Hire drivers or vehicles not licensed by this authority.
- There may be significant difficulties in verifying whether a pre booking was in place, when investigating plying for hire concerns.
- Potential confusion for the public, who may not recognise the vehicle which turns up and cannot readily verify the credentials of the driver.
- Investigations may become protracted and on a national basis involving different licensing authorities.
- Timescales for summary prosecutions (6 months) would be extremely tight.
- Operators may choose to be licensed by authorities with less rigorous licensing standards and simply transfer bookings from the Kirklees district to that operating base.
- Licensed vehicles from other licensed authorities may have minimal exterior identification making it easier for unlicensed vehicles and drivers to pass themselves off as licensed. This creates a risk to public safety.
- Kirklees Council is reliant on other authorities having an enforcement capacity dedicated to Taxi & Private Hire Licensing.
- In effect this part of the Act could virtually put enforcement capability out of reach of the licensing authority.

2.3.2 These concerns are shared across many authorities. As stated Kirklees licensing is working through the West Yorkshire Combined Authority to try and establish some common licensing standards and enforcement compatibility across the West Yorkshire area. Some of the key issues being considered by the Combined Authority are the following:-

- Safeguarding- child sexual exploitation - human trafficking - a common minimum training standard for the trade.
- Driver application process - improved common minimum standards English comprehension - common minimum standards for new applicants, it would only apply to existing licence holders where there was an identified need, with the focus being on training and development within an agreeable timeframe.

- Convictions Policy and Convictions Criteria - standard criteria be adopted.
- Decision making-scheme of delegation - all local authorities introduce a scheme of delegation to Officers for decision making.
- Private Hire Operator Conditions - a common standard across the Combined Authority.
- Private Hire Vehicle Conditions - all West Yorkshire licensed vehicles have similar recognisable door livery which deforms when removed.
- Common Byelaws - Hackney Carriages - a common standard across the Combined Authority.
- West Yorkshire Centralised Licensing Database - maintaining a centralised record of licence applications, suspensions, revocations to enable greater checking at the point of revocation.
- Authorised Officer status - Licensing and Enforcement Officers able to carry out inspection and suspension powers on a vehicle licensed by any Combined Authority, through the scheme of delegation of powers being coordinated across all the authorities to enable more efficient enforcement action.

2.3.4 Key licensing officers in all West Yorkshire and City of York Authorities met on 15th October 2015, to agree an approach to tackle these concerns. It was agreed that all officers would consider whether there should be cross authority delegation of taxi and private hire licensing enforcement functions. The intention would be to work towards all authorities having this in place as soon as possible but no later than by 1st April 2016

2.3.5 The current functions which are delegated to licensing officers in this authority are set out in the sub-delegation scheme and include the functions set out in the paragraph below: The intention would be that Kirklees Licensing officers would retain the sub-delegation of these functions but the same functions would also be delegated to the other West Yorkshire authorities.

Local Government (Miscellaneous Provisions) Act 1976

- Section 53(3) (a) Driver to produce his licence for inspection
- Section 58 Return of identification plate or disc on revocation etc
- Section 60 to suspend and revoke vehicle licenses
- Section 61 to suspend and revoke driver licences
- Section 68 Fitness of private hire vehicles
- Section 73 Obstruction of Authorised Officers.

Town and Police Clauses Act 1847

- Section 45 prosecution for plying for hire
- Road traffic Act 1988
- Section 143 (no insurance)
- All criminal matters.

2.3.6 Each authority would retain the ability to grant and renew licenses; those functions will not be delegated. Only the enforcement functions would be delegated. The ability to prosecute will rest as at present with the district within which the alleged offence occurred. Officers in each authority will agree to

provide evidence where necessary to support prosecutions by the other authorities where they have been involved in investigating the alleged offence. How this will work in practice for each authority will be set out in an agreement between all of the authorities.

3. THE AMENDMENTS

- 3.1 The proposed change to the delegation is that Council amend the Council's constitution under the headings -

"Responsibility for Functions". Section C Delegations. Paragraph 5 (ii) Delegation to other local authorities. To be:-

Discharge by Leeds City Council, Wakefield Council, Bradford Metropolitan Council Calderdale Council and City of York Council of the Council's functions relating to the enforcement of Hackney and Private Hire matters under The Local Government (Miscellaneous Provisions Act) 1976 and the Town and Police Clauses Act 1847.

There may be additional minor drafting amendments required to the Constitution which the Assistant Director Legal, Governance and Monitoring will undertake.

4 RESOURCE IMPLICATIONS

- 4.1 There are no significant resource issues. There may be financial challenges which cannot be evaluated at the moment but the expenditure is closely monitored and any emerging needs, would have to be met from the licensing fees charged which are set at the level required to fund the regulatory regime. The opportunities to seek costs from defendants or appellants will be strongly pursued by solicitors representing the Council at court.

5 LEGAL IMPLICATIONS

- 5.1 The functions subject of this report are Council functions. Local functions are delegated to the Director of Economy, Skills and the Environment. The Local Government Act 1972 section 101(1) (b) permits delegations of council functions from one authority to another. Section 101(3) of the same Act permits that other authority to arrange for discharge of those functions by a committee, sub-committee or officer of that authority, effectively as though the function had always been theirs. The function would need to be delegated by full Council (rather than by an officer or the Licensing & Safety Committee) and should be captured in the constitution so the delegation across the authority is clear.
- 5.2 Officers in this authority would still have the delegated authority to carry out the same functions. All of this should also be captured in the relevant sub - delegation schemes of officers.
- 5.3 If policies need to be altered to reflect the above, then aside from minor variations changes to policies would be a decision for the Licensing & Safety Committee.

6 HUMAN RIGHTS

- 6.1 Local Authorities powers, can significantly affect an individual's livelihood, for example, the licensing of taxis and private hire vehicles and drivers. Refusal or

revocation of a licence is likely to amount to the 'determination' of 'civil rights and obligations' with the result that Article 6(1) of the European Convention on Human Rights (ECHR) is engaged. The Council therefore has to ensure that anyone facing refusal, revocation or suspension is afforded a fair hearing within a reasonable time.

- 6.2 Any person aggrieved by an adverse decision does also have a statutory right of appeal against that decision to a local Magistrates Court.

7. CONSULTEES AND THEIR OPINIONS

- 7.1 Lead members were consulted on the proposal.

Licensing & Safety Committee

Governance & Audit Committee

- 7.1.1 Consultation with the Hackney Carriage Associations and the Private Hire Trade is not a legal requirement in these circumstances.

8. OFFICER RECOMMENDATIONS AND REASONS

- 8.1 That Licensing and Safety Committee agree that the Taxi and Private Hire enforcement powers as set out in paragraph 3.8 of this report, be delegated by Kirklees Council to the other West Yorkshire authorities and City of York Council, as well as being retained by Kirklees Council as licensing authority as detailed in paragraph 3.1.

To agree to Kirklees Council, receiving similar delegated enforcement powers from the other West Yorkshire and City of York Authorities.

To delegate the authority to the Assistant Director, Legal Governance & Monitoring to make the appropriate amendments and any consequential changes to the Constitution.

9. Cabinet portfolio holder recommendation

The portfolio holder, Councillor Steve Hall has said that this is another step forward in the city region working together as one and recognising and reacting to recent changes in legislation - Councillor Steve Hall, fully supports the proposals.

10. Contact officer

Catherine Walter, Licensing, Local Land Charges & Highways Registry Manager.

Telephone - (01484) 456868

Email catherine.walter@kirklees.gov.uk

11. Assistant Director responsible

Paul Kemp - Assistant Director - Place

Telephone - (01484) 221000

Email - paul.kemp@kirklees.gov.uk