

Appendix 14

Question 11 - Do you agree that the decision making should stay delegated to the Group Leader for licensing?

Summary of DfT requirement and reason: -

It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees.

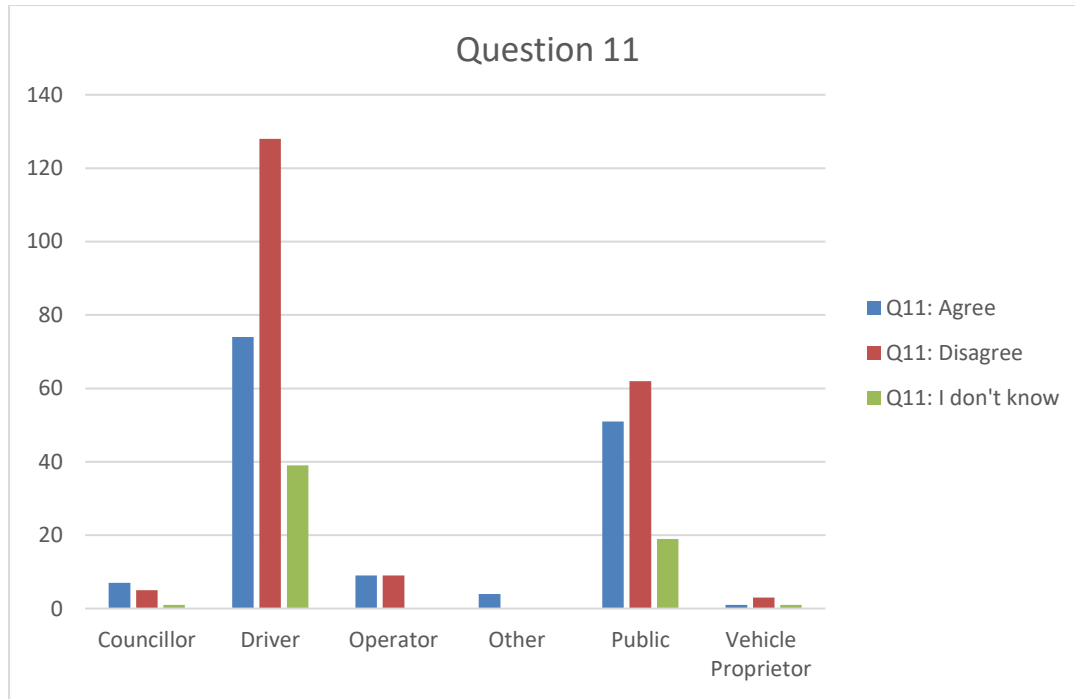
Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended, and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close connection between the officers on the panel, and those involved in the operational discharge of the licensing functions. Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. Regardless of which approach is adopted, **all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.** It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.

No – 208 respondents (50%)

Yes – 146 respondents (35%)

I do not know – 60 respondents (15%)

Appendix 14



If you ticked no above please can you clarify which types of cases you believe that should be considered by a panel of elected members:

- All cases -188 (70%)
- Crimes resulting in the death of another person or was intended to cause the death or serious injury to another person - 53 (20%)
- Exploitation – any crimes involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victims were adults or children including, for example; slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse - 49 (18%)

Appendix 14

- Offences involving violence (including arson, riot, terrorism offences, harassment, common assault and criminal damage) or connected with any offence of violence - 47 (17%)
- Possession of a weapon or any other weapon related offence - 41 (15%)
- Sex and indecency offences – any offence involving or connected with illegal sexual activity or any form of indecency - 50 (19%)
- Dishonesty – any offence of dishonesty, or any offence where dishonesty is an element of the offence - 49 (18%)
- Drugs supply – any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply - 53 (20%)
- Drugs use – any conviction for possession of drugs, or related to possession of drugs - 45 (17%)
- Discrimination – any conviction involving or connected with discrimination in any form - 59 (22%)
- Drink Driving/driving under the influence of drugs - 54 (20%)
- Driving whilst using a hand-held telephone or other device - 45 (17%)
- Minor Traffic related offences – offences which do not involve loss of life, driving under the influence of drink or drugs, driving whilst using a hand held telephone or other device and has not resulted in injury to any person or damage to any property ((including vehicles) resulting in 7 or more points on a DVLA licence - 41 (15%)
- Major traffic related offences – offences not covered under minor traffic or vehicle related offences and also any offence which resulted in injury to a person or damage to any property (including vehicles), driving without insurance or any offence relating to motor insurance - 41 (15%)
- Hackney carriage or private hire offences - 46 (17%)
- Vehicle use offences, for example being carried in vehicle without the owner's consent - 31 (12%)
- Cases dealt with by way of officer review into the conduct of a driver following a complaint, multiple complaints to the service in relation to conduct/behaviour of the driver or any other reason an officer review of a driver may be require - 50 (19%)

Appendix 14

| <u>Summary of repeated/similar additional comments</u> | <u>Council Response</u> |
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| Panel would be fairer | It is a matter for consideration for members |
| For smaller cases – larger and more serious cases should be a group/panel/team – trained | It is a matter for consideration for members |
| Some scope for referral to a panel | It is a matter for consideration for members |
| People should be afforded opportunity to be considered by panel of councillors | It is a matter for consideration for members |
| Suggestions that it should not be members but should be a panel of individuals, such as elected people from all walks of life, trade union, councillor, licensing officer, reps from the trade, operator licence holder where driver is employed | It is a matter for consideration for members |