

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