

Committee: LICENSING

Agenda Item

Date: 16 September 2009

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Title: **DELEGATED POWERS**

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Item for decision

Summary

1. This report is to draw members' attention to an anomaly within the delegated powers and to seek an amendment to the Scheme of Delegation to rectify the same.

Recommendations

2. That members resolve to grant the Assistant Chief Executive delegated authority to grant a licence on renewal to a driver of a private hire and/or hackney carriage where the driver does not meet licensing standards but nevertheless has previously been awarded a licence by the Licensing Committee where there has been no change in circumstances.

Background Papers

3. None.

Impact

- 4.

Communication/Consultation	None
Community Safety	None
Equalities	None
Finance	None
Human Rights	None
Legal implications	None
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

5. Under current delegated powers I may not grant a licence to a driver who does not meet the council's adopted licensing standards. Where I consider that an exception could be made to policy I place the application before members of the Licensing Committee to make a decision.
6. Where this happens and the Licensing Committee grant a licence notwithstanding the driver does not meet licensing standards, I do not technically have the power to re-issue a licence on renewal.
7. When a driver has been before the Committee and a licence has been granted then unless there has been a change in circumstances between the grant and renewal it would be absurd to require the driver to re-appear before the Committee so that the licence can be renewed. In the event that a differently constituted committee were to refuse to renew a licence which had been so granted, such a decision would be seen as being perverse. It would be undefendable either on appeal or upon an application for judicial review.
8. The proposed amendment to delegated powers in no way prejudices the licensing aim of protecting the public as only drivers who have been approved by the Committee could receive a licence on renewal under this proposal.

Risk Analysis

15.

Risk	Likelihood	Impact	Mitigating actions
Unsuitable persons are licensed to be private hire and/or hackney carriage drivers.	1, where a driver does not meet standards only the committee can grant a licence in the first instance.	4, in the event that an unsuitable person were to be licensed there would be an increased risk of harm to the public.	That members only grant licences to persons who do not meet licensing standards where exceptional circumstances justify departure from policy.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.