

<b>COMMITTEE:</b>	<b>GENERAL LICENSING COMMITTEE</b>
<b>DATE:</b>	<b>22 JUNE 2015</b>
<b>TITLE:</b>	<b>THE SCHEME OF DELEGATION REGARDING THE DETERMINATION OF APPLICATIONS FOR HACKNEY CARRIAGE/PRIVATE HIRE VEHICLES WHEN THE VEHICLES DOES NOT COMPLY WITH THE AUTHORITY'S POLICY</b>
<b>PURPOSE:</b>	<b>FOR DECISION</b>
<b>AUTHOR:</b>	<b>HEAD OF REGULATORY DEPARTMENT</b>

## **1.0 BACKGROUND INFORMATION**

- 1.1 The Committee decided on 17 September 2012 to delegate the power to the Head of Regulatory Department, in consultation with the Chair and Vice-chair of the General Licensing Sub-committee, to approve taxi vehicle licensing decisions for vehicles that do not comply with the authority's policy.
- 1.2 On 8 December 2014, the Committee decided that an additional member, Councillor Peter Read was to be included on the 'decisions panel'.
- 1.3 In October 2014, the Council Constitution was updated and provides in Appendix 3 to Section 13, regarding Officer Scheme of Delegation that the duties of the Head of Regulatory Department are:

11.3.5 To exercise the Council's powers in the field of hackney and private hire vehicle licensing except for the following matters which are the responsibility of the Sub-committee of the General Licensing Committee.

- (a) To determine an application for a hackney/private hire driver's licence when the report of the Criminal Records Bureau discloses a conviction or police caution.
- (b) To determine an application for a hackney/private hire vehicle licence when the vehicle does not comply with the authority's policy.**
- (c) To determine an application for a private hire operator licence when the report of the Criminal Records Bureau discloses a conviction or police caution.

## **2.0 DECISIONS**

- 2.1 During the period 17 September 2012 to 30 April 2015 a total of 73 licences have been granted for vehicles which are contrary to the current Gwynedd Council Hackney Carriage vehicle policy.

The 73 licences can be categorised as follows:

**Replacement Vehicles** - a total of 30 licences have been granted contrary to policy to proprietors as a replacement to an existing licensed vehicle.

**Wheelchair Accessible over 3 years** – a total of 16 licences were granted to proprietors of wheelchair accessible vehicles however the vehicles were contrary to the 3 year old policy requirement at the time of licensing.

**Not Wheelchair Accessible under 3 years** - a total of 9 licences were granted to proprietors of hackney vehicles that did not comply with the policy requirements in terms of wheelchair accessibility but did comply in terms of age requirement.

**Not Wheelchair Accessible over 3 years** – a total of 18 licences were granted to proprietors of hackney vehicles that did not comply with the policy requirements in terms wheelchair accessibility or age requirement.

- 2.2 During this period to April 2015, the records show that only 1 application was refused.

### **3.0 REVIEW OF CURRENT ARRANGEMENT**

- 3.1 The number of applications to licence vehicles that fail to comply with the policy has increased considerably since the decision was made to delegate the licensing decisions to the Head of Regulatory in consultation with the 'decisions panel'.
- 3.2 The Licensing Unit received 9 applications in 2013, 48 applications in 2014 and 29 applications in the 2015 in first four months to alone.
- 3.3 The process of the consultation requires the licensing officer to consult and communicate decisions between the applicant and the three members of the 'decision panel'. The process is quite intensive as many applicants are anxious to receive a decision on their request as soon as possible.
- 3.4 A number of complaints have been made recently to the Council regarding delays and the way in which applications to licence a vehicle that does not comply with the policy are being processed. In light of these complaints the Head of Regulatory consulted with the Legal Department to obtain advice regarding the current arrangement for making decisions. Their advice was as follows:
- In accordance with the Council's Scheme of Delegation, decisions on formal applications are made by the General Licensing Sub-committee.
  - To have access to the appeal provisions of the Local Government (Miscellaneous Provisions) Act 1976, the applicant must submit a formal application.
  - The General Licensing Committee and Sub-committee have no power to provide advice.
  - Decisions must only be made on formal applications.
  - If members of the 'decision panel' failed to reach a decision then they would be excluded from voting on the case at the General Licensing Sub-Committee hearing.
- 3.5 The current procedure for dealing with applications to licence a vehicle contrary to policy must be reconsidered. The process must consider whether the requisition/representation received from the applicant satisfies the requirement of a 'formal application'. Requisitions that fail to satisfy the requirements of a 'formal application' cannot be decided upon.

### **4.0 'FORMAL APPLICATION' or 'APPLICATION IN PRINCIPLE'**

- 4.1 A 'formal application' is one that satisfies the requirements of s40 of the Town Police Clauses Act 1847. The requirements are:-

- The proprietor or one of the proprietors of the hackney carriage in respect of which a licence is applied for, must sign a requisition for that purpose.
  - The requisition shall state
    - the name, surname and place of abode of the person applying for such licence
    - the name, surname and place of abode of every proprietor or part proprietor of the hackney carriage
    - the name, surname and place of abode of every person concerned either solely or in partnership with any other person, in the keeping, employing or letting to hire of the hackney carriage.
- 4.2 The council also has the power under s57 Local Government (Miscellaneous Provisions) Act 1976, to require applicants to submit such information as they may reasonably consider necessary to determine whether the licence should be granted.
- 4.3 The current vehicle licensing application forms used by the council requires the applicant to provide the following information and documentation.
- Vehicle registration number
  - Make and type of vehicle
  - Engine capacity c.c. (as described on the vehicle's registration document)
  - Colour of vehicle (as described on the vehicle's registration document)
  - Number of passengers
  - Place(s) where vehicle is normally kept when not in use
  - Provide a copy of the Vehicle Registration Document (on first application only)
  - Provide a copy of the MoT Test Certificate if the vehicle is over 3 years old
  - Provide a copy of the Certificate of Insurance for the vehicle confirming use for 'Plying for Hire'
  - Provide a copy of the Home Office Radio Licence (If applicable)
- 4.4 Applications that satisfy the requirements of s40 TPCA 1847 and s57 LG(MP)A 1976, should be treated as a 'formal application' and should conclude with a hackney carriage licence being granted or refused.
- 4.5 Applications that fail to satisfy these requirements cannot be decided upon and will therefore be treated as an 'application in principle'. Every application in principle will conclude with advice being given to the applicant, on a without prejudice basis, on the likely outcome of their request, before submitting a formal application.

## **5.0 RECOMMENDATION**

- 5.1 That the Committee decide that all 'formal applications' for hackney carriage/private hire vehicles when the vehicle does not comply with the authority's policy, are determined in accordance with the Council's Constitution dated October 2014, i.e. will be decided by the General Licensing Sub-committee. The process will then allow for the applicant the right to appeal the decision.
- 5.2 That the Committee decide that all 'applications in principle' i.e. those that fail to satisfy the requirements of a formal application are provided with pre-application advice from the Licensing Unit, on a without prejudice basis, on the likely outcome of their request, before submitting a formal application.

- 5.3 In light of the above and the impact the changes specified in the Deregulation Act 2015 will have on the Taxi and Private Hire Licensing schemes, that the Committee agrees that the policies and working practices relating to Taxi and Private Hire Licensing are updated and reviewed. The policies to be reviewed are:-
- Combined Hackney Carriage/Private Hire Vehicle Driver Licence Policy
  - Private Hire Operator's Licensing Policy
  - Hackney Carriage & Private Hire Vehicle Licensing Policy