

<b>COMMITTEE</b>	<b>GENERAL LICENSING COMMITTEE</b>
<b>DATE:</b>	<b>11 NOVEMBER 2024</b>
<b>TITLE:</b>	<b>DELEGATION OF RIGHTS TO DETERMINE APPLICATIONS FOR TAXI LICENCES.</b>
<b>PURPOSE:</b>	<b>TO REVIEW THE DELEGATION SCHEME AND CONSIDER OPTIONS FOR AMENDING THE ARRANGEMENTS</b>
<b>AUTHOR:</b>	<b>HEAD OF ENVIRONMENT DEPARTMENT</b>

## **1.0 BACKGROUND INFORMATION – LEGAL CONTEXT**

- 1.1 The Council as a Licensing Authority has a duty under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 to license private hire and hackney vehicle drivers, vehicles and operators.
- 1.2 The power to grant driver/operator licences is included in Sections 51, 55, and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (The Act). The Licensing Authority is required to ensure that an individual applying for a driver/operator's licence, or applying for the renewal of such a licence, is a 'fit and proper' person to hold that licence.
- 1.3 The powers to suspend, revoke or refuse to renew a driver's licence are included in Section 61 of the Act. The power applies to situations where the applicant/licence holder has
- been found guilty of an offence involving dishonesty; indecency or violence
  - Failed to comply with the provisions of the Town Police Clauses Act 1847
  - Failed to comply with the provisions of Part 2 of the Local Government (Miscellaneous Provisions) Act 1976
  - Or any other fair reason.
- 1.4 The main purpose of licensing vehicles, operators and drivers is to safeguard the public; and this is the priority no matter what the Council's arrangements may be for deciding whether an application for a licence is to be approved or not.

## **2. THE CONSTITUTION AND DELEGATED POWERS**

- 2.1 The Constitution sets out a specific procedure in terms of which decisions are delegated to officers; and which decisions fall under the Sub-committee's responsibility. Clause 11.3.5 of Appendix 3 to Section 3 states that decisions regarding taxi licences are delegated to the Head of Environment Department, with the exception of the matters listed below -

**11.3.5 Exercising 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) Determining 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) Determining an application for a hackney/private hire vehicle licence where the vehicle does not comply with the authority's policy.
- c) Determining an application for a private hire operator's licence when the report of the Disclosure and Barring Service discloses a conviction or police caution.

2.2 All other decisions relating to the above legal requirements are delegated to the Head of Environment Department, who has authorised specific officers to implement these powers on his behalf.

2.3 The power to revoke or suspend a licence is regularly exercised by officers authorised by the Head of Environment Department. When an individual is unsatisfied with the decision to suspend or revoke a licence; the individual may appeal to a Magistrates Court within 21 days of receiving the suspension/revocation notice.

## **2. OTHER MATTERS TO CONSIDER**

2.1 In addition to the need to refer applications by individuals who have convictions or Police cautions noted on their DBS; there are wider circumstances where applications are referred to the General Licensing Sub-committee for a decision.

2.2 This can include an accusation or information received regarding an individual's behaviour which has not led to a conviction, or where the case has not yet been heard in court.

2.3 In accordance with the requirements of current Council policy – *Suitability Criteria for Drivers and Operators* – the following circumstances also lead to an individual's referral to a Sub-committee hearing for a decision, namely:

- Breach of an Act, a By-law or a Licensing condition
- Serious traffic offences or several convictions for minor traffic offences

## **4 THE DECISION OF THE GENERAL LICENSING COMMITTEE - 2 DECEMBER 2019**

4.1 A report was presented to this Committee on 2 December 2019 (please see the appendix to this report) outlining the current arrangements, and with initial options for reviewing the current arrangements in terms of delegating decisions.

4.2 In discussing the current system it was noted that the submission of a formal report with a recommendation is an effective method of ensuring that the Sub-committee is given clear guidance on an application including relevant evidence which forms the basis for the recommendation. The report also formally provides the applicant (and any other parties) with information regarding how the Officer has reached his/her

recommendation for the application, and the applicant has the opportunity to expand on their application.

- 4.3 The system for the approval or refusal of applications for taxi licences includes the right to appeal to a Magistrates Court. Decisions made by a Sub-committee to refuse applications, or by officers to revoke or suspend licences, are made in order to protect the public; however, it is important that we are able to evidence the reasoning behind a decision as there are rights to appeal against these decisions.
- 4.5 It is believed that the side-effects of the Delegation Scheme in its current form cause:
- An unnecessary workload for the Sub-committee due to the number of applications that must be reported because the applicant has a conviction
  - An unnecessary workload for the Licensing and Committees Services due to the need to prepare reports and organise meetings of the Sub-committee at random.
  - Delays in the decision process for applications because of the need to report to the Sub-committee, meaning that applicants have to wait longer for a decision
- 4.6 The Committee agreed that there is a need to look at the procedures for delegating decisions so that the Sub-committee continues to be able to award decisions in an objective and rational manner, where the applications, by their nature, justify a Sub-committee decision.
- 4.7 The Committee decided to give the right to the Legal Service and the Licensing Service to investigate further how the delegation scheme could be reviewed to address all the identified disadvantages of the current system; while at the same time preserving the resilience, fairness and transparency of the current system.
- 4.8 It was agreed that the wording of the reviewed delegated rights will be clear and explicit and that the preferred revised version will be submitted to this Committee for a final decision.

## **5 FURTHER REVIEW OF THE DELEGATED RIGHTS IN RELATION TO APPLICATIONS FOR PRIVATE HIRE DRIVER, VEHICLE AND OPERATORS' LICENCES**

- 5.1 It is believed that the delegation system can be reviewed, ensuring continued resilience of the decisions made by officers and the Sub-committee; but allowing an opportunity for the Sub-committee to focus on the most contentious or complex applications.
- 5.2 Arrangements like these for the delegation of decisions vary from Council to Council. Some Licensing Authorities delegate the right to an officer to determine any application that is not contrary to policy. Some delegate the right to make decisions to an Officer, but with a procedure for appealing to a Sub-committee should the applicant not agree with the decision.
- 5.3 From Cyngor Gwynedd's point of view we believe that the Sub-committee has an important role in considering and deciding applications that are contrary to any policy in operation at the time; such as the current policy that provides guidance on determining whether an individual is fit and proper to hold a taxi driver's licence – (*Suitability Criteria for Drivers and Operators Policy*). There needs to be explicitness in terms of defining the circumstances in which an application should be referred to the Sub-committee.

5.4 It is therefore proposed that the delegated rights be revised as follows –

**6 Delegated Rights of Head of Environment: review clause 11.3.5 as follows-**

- 6.1 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 and when the application is contrary to the Authority’s policy.
- b) To determine an application for a hackney/private hire vehicle licence where the vehicle does not comply with the authority’s policy.
- c) To determine an application for a private hire operator's licence when the report of the Disclosure and Barring Service discloses a conviction or police caution and when the application is contrary to the Authority’s policy.
- 6.2 Changing the procedure as above would ensure that the decision is delegated to an officer in circumstances where the individual's criminal history, or any matter to be considered, is not contrary to policy. It should be noted however that the Head of Department has the discretion under the Scheme of Delegation to refer any application for a Sub-Committee hearing where circumstances warrant doing so; and the changes will not affect the right to do so.
- 6.3 If the Committee agrees with the changes , they will be presented for approval by Full Council as part of the Monitoring Officer’s Report on the Review of the Constitution.

**RECOMMENDATION -**

**The Committee is asked to approve the amendment to the procedure for delegating decisions to the Sub – Committee in accordance with the procedure recommended in the report.**