

**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

**EXECUTIVE MANAGEMENT TEAM'S**

**REPORT TO**

**Licensing and Public Protection Committee**

**17 March 2020**

**Report Title:** Review of Scheme of Delegation for Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847

**Submitted by:** Head of Environmental Health Services

**Portfolios:** Finance & Efficiency

**Ward(s) affected:** Not Applicable

**Purpose of the Report**

To consider a proposed amendment to the scheme of delegation in respect of taxi and private hire licensing. The amendment would allow officers to deal with certain types of applications received that are not fully compliant with the current licensing policy.

**Recommendation**

**That Committee supports and recommends to Council the proposed amendments to the scheme of delegation.**

**Reasons**

To improve efficiency in dealing with non-compliances with the taxi licensing policy.

**1. Background**

- 1.1 Public Protection Committee has many delegated functions including the power to make decisions in respect of hackney carriage and private hire drivers, vehicles and operators which are not in full compliance with the Councils current 'Taxi and Private Hire Policy 2019'.
- 1.2 Officers of the Council also have specific delegated functions for the issuing of licences which are in compliance with the Councils current 'Taxi and Private Hire Policy 2019'. In addition, officers have delegated responsibilities to undertake some enforcement activities.
- 1.3 Members at the Licensing & Public Protection Committee on 8<sup>th</sup> January 2020 requested officers to review delegated powers in respect of non-compliance with the Taxi Policy 2019 to improve efficiency in dealing with certain types of non-compliances.

**2. Issues**

- 2.1 Committee business, particularly in respect of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847, is high and there is an element of core business relating to some breaches of the Taxi Policy. The area of concern for members of the Licensing & Public Protection Committee relates to the volume of business

taken before sub-committees to consider licence applications where there are aged or relatively minor issues which, whilst technically amounting to a non-compliance with policy, aren't sufficient to justify a refusal to grant the licence sought. Members have frequently found themselves considering lengthy agendas populated with such matters on account of the way in which the delegations are currently set out. They expressed a desire for that issue to be considered with a view to altering the delegations to provide greater flexibility for such matters to be dealt with at Officer level.

2.2 In the current scheme of delegation, the following is detailed:

<b>Detail</b>	<b>Responsibility</b>
Power to grant, renew and transfer Private Hire and Hackney Carriage: Vehicle Licences, Driver Licences and Operators NOT in compliance with policy.	Public Protection Committee or Public Protection Sub Committee

2.3 It is proposed that the responsibility is amended to the following:

<b>Detail</b>	<b>Responsibility</b>
Power to grant, renew and transfer Private Hire and Hackney Carriage: Vehicle licences, Driver licences and Operators NOT in compliance with policy	Public Protection Committee, Public Protection Sub Committee or Executive Director (Operational Services) or Head of Environmental Health in accordance with a specific scheme of delegation approved by Public Protection Committee from time to time.

2.4 Any amendment to the scheme of delegation requires a change to the Constitution so the views of the Constitution and Member Support Working Group have been sought and will be reported at the Committee. The views of the Licensing & Public Protection Committee and the Constitution and Member Support Working Group, be reported to full Council through a recommendation that Council amends the scheme of delegation to achieve the flexibility sought.

### 3. **Options Considered**

3.1 There are numerous options available in respect of the Scheme of Delegation. These would include:

3.1.1 Delegate all functions to Officers;

3.1.2 Create delegations for Committee, Sub-committee and Officers commensurate with roles and responsibilities.

### 4. **Proposal**

4.1 The preferred solution is to inject some flexibility into the process through the change to the scheme of delegation set out at paragraph 2.3 above. That enables the Licensing & Public Protection Committee to agree a scheme of delegation to officers from time to time to set out the sorts of things that Committee would be content for officers to determine. The benefit of an approach which enables a local scheme to be agreed by the Committee is that the scheme can be changed rapidly by the Committee, as opposed to having to progress through full Council, to respond to changing trends in non-compliance and, if needs be, to refine and improve how the scheme is functioning in light of operational experience.

- 4.2 The intention would be for the scheme to permit officers to approve licence applications (with warnings or conditions as needs be) in circumstances where the application may strictly be non-compliant with policy, but in circumstances where experience shows that sub-committees have tended to exercise their discretion to grant. That would effectively prevent low-level business coming to committee which committee is currently compelled to consider and invariably approves.
- 4.3 Notwithstanding any local scheme agreed by the committee from time to time, officers would always be able to refer matters back to committee that they considered appropriate for the committee to deal with, and the committee chair, in discussion with officers, would likewise be able to request that individual matters were brought to committee which would otherwise be determined under the approved scheme of delegation.
- 4.4 Committee is asked to endorse the change to the scheme of delegation proposed at 2.3 above.

5. **Reasons for Preferred Solution**

- 5.1 To enable committee to determine applications and enforcement sanctions in the most effective and practical manner.
- 5.2 To ensure that the council continue to provide safe transport for those wishing to use private hire and Hackney Carriage vehicles.

6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- 6.1 In line with the Council's objectives –
- Local Services that work for local people
  - Growing our people and places
  - A healthy, active and safe borough
  - A town centre for all

7. **Legal and Statutory Implications**

- 7.1 The Local Government Act 1972, section 101 allows the Council to arrange for a Committee, sub-committee or an officer or another local authority to carry out its powers and duties.

8. **Equality Impact Assessment**

- 8.1 The meetings will be undertaken to accord with the Human Rights Act 1998, Article 6(1) guarantees an applicant a fair hearing and Article 14 guarantees no discrimination.

9. **Financial and Resource Implications**

- 9.1 There will be no direct financial costs associated with the proposals.

10. **Major Risks**

- 10.1 There are no major risks associated with this report.

11. **Sustainability and Climate Change Implications**

- 11.1 Not applicable.

12. **Earlier Cabinet/Committee Resolutions**

- 12.1 Council Meeting – 4<sup>th</sup> June 2014
- 12.2 Council Meeting – 16<sup>th</sup> May 2018

13. **List of Appendices**

13.1 None

14. **Background Papers**

14.1 Not applicable.