

Report of: Transport and Parking Business Manager

To: General Purposes Licensing Committee

Date: 16th January 2008 **Item No:**

Title of Report **Delegated Powers.**

Summary and Recommendations

Purpose of report:

To inform the Committee of changes to the legislation concerning the licensing of hackney carriage and private hire drivers and seek Committee approval for officers to exercise some of the powers provided by the changes.

Key decision: No

Portfolio Holder: N/A

Scrutiny Responsibility:N/A

Ward(s) affected: All

Report Approved by:

Graham Smith. Transport and Parking Business Manager
Daniel Smith Legal and Democratic Services

Policy Framework: None

Recommendation(s):

The Committee is RECOMMENDED to:-

Consider the report and approve the alteration to the Hackney Carriages and Private Hire Licensing Sub-Committee's powers and duties as set out in the appendix to this report (noting that the Monitoring Officer will change the Constitution to follow the law as he is empowered to do by Constitution Procedure Rule 2.5) allowing the Transport and Parking Business Manager to exercise the power under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 to suspend (but not to revoke), the licence of a hackney carriage or private hire driver with immediate effect in cases where he considers that immediate suspension is required in the interests of public safety.

Background

1. Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 allows a district council to suspend, revoke or refuse to renew the licence of a hackney carriage or private hire driver on grounds that :-
 - a) he has been since the grant of the licence:
 - i) convicted of an offence of dishonesty, indecency or violence, or
 - ii) convicted of an offence under or has failed to comply with the provisions of the 1847 Act or part of the 1976 Act ,or
 - b) any other reasonable cause.
2. Any decision to suspend or revoke a licence can be appealed at the Magistrates' Court.
3. Section 52 of the Road Safety Act 2006 amends the Local Government (Miscellaneous Provisions) Act 1976 and provides that suspension or revocation of a licence will take effect 21 days after notice has been given to the driver. The amendment also gives licensing authorities the power to immediately suspend or revoke a licence where they are of the opinion (the reasons for which must be recorded in the notice to the driver) that the interests of public safety require such a course of action. Until this came into force on 17th March 2007 if a licence holder appealed, the suspension or revocation was held in abeyance until the appeal was heard.
4. The fact that legislation permitting the immediate suspension or revocation of a licence has been introduced demonstrates that a serious view has been taken by Parliament of this situation. For Oxford City Council to implement the new legislation and avoid delay in imposing immediate suspensions in appropriate cases, the committee is being asked to agree that officers and not the committee exercise some of the new powers, and that changes to the Hackney Carriages and Private Hire Licensing Sub-committee's powers and duties are made.
5. Council has delegated all of its taxi, private hire and other vehicle licensing responsibilities to this Committee save where policy-setting is concerned. This Committee has reserved some licensing responsibilities to itself, delegated others to the Hackney Carriages and Private Hire Licensing Sub-committee and authorised the Transport and Parking Business Manager to do everything else.

Among other things I already suspend licenses for certain reasons. The powers in the Road Safety Act 2006 give additional power to district councils to suspend or revoke licenses with immediate effect. I am recommending that the power to suspend (but not the power to revoke) is used by me as and if necessary.

The powers and duties of the Sub-Committee need, for avoidance of doubt, to be altered because they conflict with my own licence suspension authority and the authority I am seeking under The 2006 Act.

6. I am recommending that the committee clarifies the powers and duties of the Hackney Carriage and Private Hire licensing Sub-Committee and that the Transport and Parking Business Manager may exercise the powers granted under the amended Section 61 Local Government (Miscellaneous Provisions) Act 1976 to suspend (but not to revoke) a taxi or private hire drivers licence with immediate effect in cases where he is satisfied that public safety requires it and pending a decision by the Hackney Carriages and Private Hire Licensing Sub-Committee on the suitability of the person to continue to hold a licence. Also, the power to lift a suspension when he considers public safety is no longer compromised.

Revocation of licences would remain the responsibility of the Hackney Carriages and Private Hire licensing Sub-Committee. Any driver aggrieved by a decision of the Transport and Parking Business Manager immediately to suspend a licence retains their right of appeal to the Magistrates' Court. However, where the suspensions are carried out under The 2006 Act powers the licence remains suspended until the Court hearing. The licence holder cannot do whatever it is the licence otherwise enables him to do unless or until a hearing takes place.

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APPENDIX

APPENDIX

HACKNEY CARRIAGES AND PRIVATE HIRE LICENSING SUB-COMMITTEE – ALTERATION TO POWERS AND DUTIES

To deal with cases concerning applicants for or holders of taxi, private hire or other driver or vehicle licences brought to the Sub-Committee by officers.