

Report of	Meeting	Date
Director of Early Intervention and Support	Council	22 Nov 2016

## **AMENDMENT TO SCHEME OF DELEGATION FOR LICENSING**

### **PURPOSE OF REPORT**

1. For the members of the Council to approve the amendments to the scheme of delegation for Licensing functions as recommended by the Director of Early Intervention following resolution by the Licensing and Public Safety Committee.

### **RECOMMENDATION(S)**

2. That the Head of Legal, Democratic and HR Services is authorised to amend the current scheme of delegation in the Constitution to allow the following decisions to be made by Officers:
  - a) Grant (or in the case of an existing licence) revoke and immediately re-grant a Private Hire or Hackney Carriage Driver Licence with the addition of non-standard conditions following consultation with and recommendations from the Council's Medical expert;
  - b) Grant exemption on medical grounds under Equality legislation following referral for consideration where criteria is met, refuse where criteria is not met (2.16 of the constitution); i.e. requirement currently in Constitution for prior consultation with Chair or Vice-Chair is removed;
  - c) The power currently delegated to the Licensing Officer to suspend a private hire driver licence or hackney carriage driver licence for periods not exceeding 14 days (2.6 of the Constitution) is amended to a period not exceeding 28 days and if longer only after consultation with Chair or Vice-Chair unless consultation is not reasonably practicable and a report is submitted to the next meeting of the General Licensing Sub-Committee;
  - d) Authority to determine applications from qualifying alcohol licensed premises (i.e. holding a premises licence or club premises certificate) for up to an additional 2 category C-D gaming machines, where no objections have been received.
  - e) Authority to the relevant Director for refusal to grant and refuse to renew a Private Hire and Hackney Carriage Vehicle Licence where the Council's vehicle conditions are not met, by amending paragraph 2.16 of the constitution and removing the requirement to consult with the Chair/Vice Chair
  - f) And, amend paragraph 2.12 of the constitution to include, where a vehicle meets the Council's conditions in the main but there is a requirement for some discretion in granting of an application in the individual case, then this authority is also delegated to the Director, without need for consultation on each matter with the Chair/Vice Chair.

## EXECUTIVE SUMMARY OF REPORT

3. The current scheme of delegation was agreed in March 2009 with minor amendments made in 2015.
4. Members of the Licensing and Public Safety Committee requested that the current scheme was reviewed and the amendments put before them for consideration following a number of cases being brought before the General Licensing Sub-Committee where an officer decision or Director decision in consultation with the Chair was considered a more appropriate approach.
5. The minutes of the Licensing and Public Safety Committee from 21 September 2016 are attached as **background papers to this report**.

<b>Confidential report</b> Please bold as appropriate	Yes	No
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## CORPORATE PRIORITIES

6. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	X

## IMPLICATIONS OF REPORT

7. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	X	Customer Services	X
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

## COMMENTS OF THE MONITORING OFFICER

8. Decisions of the Council or licensing authority must be intra vires. Decisions which are taken outside the scheme of delegation are open to challenge. The scheme of delegation sets out what decisions may be taken by officers (with or without consultation with the Chair or Vice Chair) with the remainder taken by elected members. The Council is under a legal duty to grant licences in certain circumstances e.g. to an applicant for a private hire driver licence where there are no issues with the application. Business efficacy means that such decisions are best made by officers because members could not lawfully refuse a licence.
9. There are a limited number of decisions which under legislation may not be delegated e.g. approval of both the gambling policy under the Gambling Act 2005 and the statement of licensing policy under the Licensing Act 2003 must be made by full Council. There are no statutory restrictions on the extent to which decisions in relation to taxi licensing may be delegated.

## COMMENTS OF THE FINANCE OFFICER

10. Any changes in delegation will have an effect on the licence fees the Council sets, as these are compiled on a cost recovery basis, with the exception of the Licensing Act 2003 which are set nationally.

JAMIE CARSON  
DIRECTOR OF EARLY INTERVENTION

## BACKGROUND PAPERS

Minutes of the Licensing and Public Safety Committee 21 Sept 2016  
<http://mod/ieListDocuments.aspx?MId=5354&x=1>

Report Author	Ext	Date	Doc ID
Lesley Miller	5299	Nov 16	***