

REPORT TO	ON
General Licensing Committee	12 June 2018



TITLE	REPORT OF
Delegation Under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976	Head of Licensing

Is this report confidential?	No
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1. PURPOSE OF THE REPORT

This report is designed to bring about clarity around the use and exercise of powers under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 (the Act). This Section relates to the powers to suspend and revoke a driver's licence

2. CORPORATE PRIORITIES

The report relates to the following corporate priorities:

Excellence and Financial Sustainability	x
Health and Wellbeing	
Place	

3. RECOMMENDATIONS

That the Licensing Manager be authorised to suspend driver licences (whether hackney carriage or private hire) in the circumstances set out in this report

4. BACKGROUND TO THE REPORT

4.1 Members will be aware that under the provisions of section 61 of the Act the council has the power – in certain circumstances – to suspend or revoke drivers' (hackney carriage and private hire) licences.

4.2 The relevant parts of sub section 1 of section 61 state:

“(1)... a district council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:—

(a)that he has since the grant of the licence—

- (i) been convicted of an offence involving dishonesty, indecency or violence; or
- (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;

(aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or

(b) any other reasonable cause.”

4.3 When a council suspends or revokes or refuses to renew a licence then they have to give the driver notice of the reason for the decision. Ordinarily a suspension or revocation takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If there are public safety concerns then a council may choose to suspend or revoke with immediate effect. Any driver aggrieved by a decision of a district council may appeal to a magistrates’ court.

4.4 The usual scenario where the section 61 power would be used is when dealing with matters that call into question the fitness and propriety of a driver and the facts have been examined by a committee who take steps to suspend or revoke the licence. It is clearly entirely appropriate that members should make these decisions. There is no proposed change to these procedures. In urgent situations between committee meetings decisions may be made via by the council’s Standing Order 35 procedure.

4.5 However there are administrative issues that arise from time to time that could impact on the safety of the travelling public especially if the council is deficient of documentary proof to show the driver is” Fit and Proper”. Examples include:

- *DBS (Disclosure and Barring Service) checks* - On occasions a DBS may be due for renewal but the Licence may have a period of time to run before it expires i.e. Licence expires 1st July 2018 but the DBS expires 1st May 2018. In such circumstances the driver would be lawfully entitled to drive until the expiry of his licence. In such circumstances the council would want to suspend the licence until an up to date DBS check was produced. Advance notification is given by the department to drivers to produce the documentation, so a suspension in this case will only follow a formal request that has possibly been ignored or not acted on.
- *Medicals*- Similar circumstance may arise where a medical expires but the licence is still valid, the department would seek to make advance requests for the document but again suspensions where medicals have expired may on occasions be necessary.

4.6 The Officers have been working to a model laid out above for some time. In the circumstances explained above (para 4.5) officers have indeed been suspending licences. However, it is considered desirable to provide greater clarity to existing practices by expressly granting the power to suspend in these circumstances to the Licensing Manager. The suspensions if carried out would need to be done in writing setting out the reasons for the suspension and for the action to have any meaningful impact the suspension would need to take immediate effect - again an explanation of the reasons for the immediacy of the action would be required.

4.7 The examples above are not exhaustive but Members are asked to consider the proposal of formally devolving powers to the Licensing Manager to suspend a driver’s licence when administrative requirements have not been fulfilled. This power will not extend to matters which relate to general conduct or behaviour and will be confined to administrative matters only.

5. CONSULTATION CARRIED OUT AND OUTCOME OF CONSULTATION

N/A

6. FINANCIAL IMPLICATIONS

There are none.

7. LEGAL IMPLICATIONS

The lack of a formal resolution means that Officers are carrying out the function under the General Scheme of Delegation which is very broad and lacks clarity in relation to this specific matter. Confirmation of the position avoids criticism that Officers are acting out of scope.

8. COMMENTS OF THE STATUTORY FINANCE OFFICER

There are no financial implications arising as a result of the recommendations in this report.

9. COMMENTS OF THE MONITORING OFFICER

The purpose of this report is to set out clearly the circumstances in which the Licensing Manager may suspend driver licences.

10. OTHER IMPLICATIONS:

▶ HR & Organisational Development	None
▶ ICT / Technology	None
▶ Property & Asset Management	None
▶ Risk	There is a clear need to act promptly to protect the public. What is proposed here is essentially a confirmation of existing practices albeit with greater clarity being brought to the scope of delegated powers.
▶ Equality & Diversity	None

11. BACKGROUND DOCUMENTS

None

12. APPENDICES

None

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