

AGENDA

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1. MINUTES

To confirm the minutes of the meeting held on 27 November 2018 (LC.7 - LC.9), and to confirm the minutes of the Licensing and Appeals Hearings Panel held on 22 November 2018 (LAHP.19 – LAHP.20), (LAHP. 21 - LAHP.22), (LAHP.23 – LAHP.24), 9 January 2019 (LAHP.25) and 22 January 2019 (LAHP.26), previously circulated.

2. APOLOGIES FOR ABSENCE

3. AMENDMENTS TO SCHEME OF DELEGATION

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Report of the Director of Law and Governance (Monitoring Officer)

4. MATTERS OF URGENCY

Any other business of which not less than 24 hours prior notice, preferably in writing, has been given to the Chief Executive and which the Chairman decides is urgent.

HAMBLETON DISTRICT COUNCIL

Report To: Licensing Committee
5 February 2019

From: Director of Law and Governance (Monitoring Officer)

Subject: **AMENDMENTS TO SCHEME OF DELEGATION**

All Wards

1.0 PURPOSE AND BACKGROUND:

- 1.1 This report seeks approval to delegate certain functions reserved to the Licensing and Appeals Hearings Panel to senior officers.
- 1.2 The Licensing and Appeals Hearings Panel has delegated authority to determine all hearings under licensing and registration functions.
- 1.3 The power to revoke a licence currently lies exclusively with the Licensing and Appeals Hearings Panel and, therefore, there are currently no means of delegation which would permit officers to revoke a licence in exceptional circumstances.
- 1.4 On occasion, a matter of significant concern can arise about a driver's fitness and propriety to hold a hackney carriage and private hire licence, such that (in the interests of public safety) an immediate revocation might be considered appropriate. However, under the Council's current procedures, a driver in such circumstances can continue to drive until a meeting of the Licensing and Appeals Hearings Panel can be convened to consider the matter. This can often take a number of weeks to arrange and leaves the driver driving throughout that period.
- 1.5 In addition there are occasions where a licence must be revoked in accordance with statute. For example:
 - where the Council is not satisfied as to the mechanical fitness of the vehicle after a period of two months following the suspension of a licence, section 68 of the Local Government (Miscellaneous Provisions) Act 1976 requires the Council to revoke it;
 - where a club ceases to satisfy the conditions to enable it to be a qualifying club for the purposes of Part 4 of the Licensing Act 2003, the Council must withdraw its club premises certificate;
 - where a licensed gambling premises fails to pay an annual fee in accordance with the relevant regulations, the Council must revoke the authorisation in accordance with section 193 of the Gambling Act 2005.

These decisions are non-discretionary and, therefore, a hearing of the Licensing and Appeals Hearings Panel is not, strictly speaking, necessary when revoking such licences. However, the Council's Constitution makes no provision for these administrative matters to be determined by officers and, therefore, existing arrangements are overly onerous and time consuming.

- 1.6 In light of the above, this report requests that the power to revoke a licence be delegated to the Chief Executive, Deputy Chief Executive and Director of Law and Governance (Monitoring Officer). The proposed amendments are intended to minimise the risk to public safety caused by time delays and to eliminate unnecessary bureaucracy and cost to the Council.

1.7 It is envisaged that the power to revoke a licence would only be exercised in instances where a statutory obligation exists or significant concern regarding a licensed driver's conduct has arisen. Under normal circumstances, the powers would continue to be exercised by the Licensing and Appeal Hearings Panel.

2.0 LEGAL IMPLICATIONS:

2.1 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 allows the Council to revoke or refuse to renew a hackney carriage and private hire driver's licence for any reasonable cause. The driver has a right of appeal to the Magistrates' Court against any such decision. In the absence of appropriate delegation, any proposed action would need to be delayed until such time as a hearing can be held and the Council's failure to act swiftly could pose a significant risk to public safety and public confidence.

2.2 Section 68 of the Local Government (Miscellaneous Provisions) Act 1976 requires the Council to revoke a hackney carriage or private hire vehicle licence where, after a period of two months following the suspension of a licence, the Council is not satisfied as to the mechanical fitness of the vehicle. The proprietor has a right of appeal to the Magistrates' Court against any such decision.

2.3 Section 90 of the Licensing Act 2003 requires the Council to withdraw a club premises certificate in instances where the club ceases to be a qualifying club by virtue of its failure to satisfy the qualification criteria. The club has a right of appeal to the Magistrates' Court against any such decision.

2.4 Section 193 of the Gambling Act 2005 requires the Council to revoke a gambling premises licence where the annual fee has not been paid in accordance with the relevant regulations. Similar provision is made for the revocation of permits and registrations under the same Act. There is no statutory right of appeal against such a decision but the Council may exercise its discretion by disapplying the requirement to revoke where it is satisfied that the failure to pay the fee came as a result of an administrative error.

3.0 EQUALITY/DIVERSITY ISSUES:

3.1 These have been considered and there are no equality and diversity issues associated with this report.

4.0 RECOMMENDATIONS:

4.1 The Committee is asked to give delegated authority to the Chief Executive, Deputy Chief Executive and the Director of Law and Governance to revoke a licence which is a statutory obligation or where immediate action is required to safeguard the public.

GARY NELSON
DIRECTOR OF LAW AND GOVERNANCE (MONITORING OFFICER)

Background papers: Council's Constitution
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