

AGENDA ITEM

**REPORT TO LICENSING
COMMITTEE**

17 MARCH 2020

**REPORT OF THE ASSISTANT
DIRECTOR, ADMINISTRATION,
DEMOCRATIC AND ELECTORAL
SERVICES**

GENERAL LICENSING FUNCTIONS DELEGATION

SUMMARY

To allow officers to suspend licences with immediate effect under the provisions of Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 in relation to drug screening test failures where public safety is deemed to be a relevant consideration.

RECOMMENDATIONS

1. The Licensing Committee are asked to consider and agree the proposed delegation.

DETAIL

1. Officers currently carry out approximately 48 drug tests a year, the majority of these are random tests, but some can be based on intelligence. When a driver provides a non-negative drug screening test a further test is carried out and sent to the lab for confirmation. Officers then have to decide what to do with a driver in the period waiting for confirmation.
2. Current numbers of non-negative lab confirmations are detailed below:

2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
0	2	5	4	4	1

3. Certain powers have been delegated by this committee to officers, in consultation with the chair of the licensing committee and committee legal advisor. Other licensing committee minute 25/18 which refers is attached as Appendix 1.
4. Officers have powers to suspend a driver under Section 61(1) (b) of the Local Government (Miscellaneous Provisions) Act 1976. If aggrieved the driver has a right of appeal against this decision which must be lodged with the Magistrates Court within 21 days. The driver would be able to continue to drive during the appeal period and until the appeal is determined.
5. Under the provisions of Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 a driver can be suspended with immediate effect, the driver still has the right of appeal but as public safety is deemed a consideration, the suspension is immediate and if an appeal is lodged the driver is still suspended during the appeal period and until the appeal is determined.
6. Currently for officers to suspend under 61 (2B) a delegated decision must be produced and agreed in consultation with the chair of licensing committee and legal advisor, before the suspension is produced and served onto a driver.

7. It is proposed the power to suspend under 61 (2B) be delegated to officers without consultation with the chair, but only to be used when a non-negative screening result has been produced and:
 - The test was a targeted test due to intelligence.
 - There are historic factors such as a previous history of drug use or drugs convictions.
 - An admission of drug use.
8. In addition any refusal to provide a sample is deemed to be relevant to public safety and therefore it is proposed the officer suspension takes immediate effect under the provisions of Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.
9. The proposed delegation streamlines the process to ensure public safety in these intelligence led cases. Lab confirmation can take 7-14 days and the production of and agreement of a delegated decision can take 48 hours. In addition this suspension could be used when conducting drug tests outside the office environment, when producing a written delegated decision is impractical.
10. This is current practice for Middlesbrough Borough Council officers. An example of the proposed suspension notice is attached as Appendix 2.
11. It is proposed where this power is used by officers this information will be included in member's regular updates.

**Assistant Director Administration
Democratic and Electoral Services**

Contact Officer Name:

Margaret Waggott
Leanne Maloney-Kelly
01642 526566

Telephone No.

Email Address:

leanne.maloney-kelly@stockton.gov.uk

Financial Implications:

none

Environmental Implications:

none

Legal Implications:

If a person is aggrieved with the suspension of licence they have the right of appeal to the Magistrates Court which must be lodged within 21 days.

Community Safety Implications:

Contributes towards the Council's Community Safety objectives. Action following the consideration of this report will aim to reinforce community confidence, reduce the fear of the public and increase the safety of those who may be vulnerable when using 'taxi' services.

Human Rights Implications:

Members should have regard to the Human Rights Act when determining what action to take in this matter.

Background Papers:

Appendices

Ward(s) and Ward Councillors:

Not ward related.