

AGENDA ITEM

REPORT TO LICENSING COMMITTEE

18 April 2023

REPORT OF THE ASSISTANT DIRECTOR COMMUNITY SAFETY AND REGULATED SERVICES

GENERAL LICENSING FUNCTIONS DELEGATION

SUMMARY

To allow officers to suspend driver licences with immediate effect under the provisions of Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 in relation to a drivers medical fitness 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. A copy of the current Hackney Carriage and Private Hire Vehicle Licensing Policy can be found at www.stockton.gov.uk/article/1514/Introduction. With regards to medicals the policy states at page 6:

In line with DVLA guidelines, the Council applies the DVLA Group 2 driver standards for the medical fitness of hackney carriage and private hire drivers. This is a higher medical standard than that required of drivers of other motor vehicles and is required due to the length of time the driver may spend at the wheel and the responsibility they have for the safety of their passengers and the public. A medical assessment is not needed for those with a provisional or current HGV entitlement on the understanding a medical examination has already been carried out to gain this entitlement.

2. As well as medical assessments carried out to DVLA Group 2 driver standards, Officers also use the Department for Vehicle Licensing Authority (DVLA) document: Assessing Fitness to drive a guide for Medical Professionals. This document is refreshed regularly and the most up to date version is available online at:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1084397/assessing-fitness-to-drive-may-2022.pdf
3. Officers currently 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 can continue to drive during the appeal period and until the appeal is determined.
4. 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.
5. Currently for officers to suspend drivers following concerns over medical fitness 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.

6. It is proposed the power to suspend a driver licence relevant to public safety and with immediate effect under the provisions of Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 be delegated to officers when:
 - Medical information is received meaning a driver does not currently meet group 2 DVLA medical standards.
 - Concerns over a drivers ability to meet group 2 medical standards are raised and a medical assessment must be arranged.
 - Notification of medical status is received and the DVLA guidance document to assess medical fitness states a licence should be suspended.
 - Any refusal to undertake or provide a compliant medical assessment.
7. The proposed delegation streamlines the decision and administration process to ensure public safety as agreement of a delegated decision can take 48 hours. In addition this immediate suspension process could be used outside of the office environment, when producing a written delegated decision is impractical.
8. The proposed delegation will mirror the delegation agreed by this committee in March 2020, to allow the immediate suspension of driver licence when a positive drug screening sample is given or a refusal to provide a specimen of saliva for a drug screen sample is given.
9. There have been no adverse issues from this current practice, any individual who has been suspended under this delegation has returned a positive back to lab sample and has then had their licence revoked.

**Assistant Director Community Safety
and Regulated Services**

Contact Officer Name:

Marc Stephenson
Leanne Maloney-Kelly

Telephone No.

01642 526566

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.