

General Licensing Committee Report

Report of Head of Legal and Democratic Services

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To: General Licensing Committee

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AGENDA ITEM NO 6

Taxi Licensing sub-committees - delegations and procedures

Recommendation

The General Licensing Committee is asked to approve the:

- terms of appointment
- terms of reference
- procedures

for the operation of the taxi licensing sub-committees defined in the Taxi Licensing Policy approved at this meeting.

Purpose of Report

1. Under the Council's taxi licensing policy, discussed at this meeting and, if agreed, effective from 1 April 2009, a sub-committee of the General Licensing Committee is appointed to make decisions in some circumstances.

Taxi Licensing Panel

2. The Committee has responsibility for appointing its own sub-committees.
3. The Committee is asked to consider approving the terms of appointment and terms of reference (set out below) for the sub-committees referred to in the Taxi Licensing Policy.

The General Licensing Committee agrees:

- to appoint sub-committees comprising any three members, or their appointed substitutes, of the General Licensing Committee;
- that the sub-committees be known as taxi licensing panels;
- to appoint each member or substitute of the General Licensing Committee to serve on any taxi licensing panel which is convened so as to include her or him in its membership;
- to authorise each taxi licensing panel to discharge all functions relating to matters referred to the panel by the council's licensing officer under the Taxi Licensing policy agreed by the General Licensing Committee on 5 February 2009 and effective from ___;
- that, wherever possible, applications should be heard by a panel comprising the Chairman or Vice-Chairman of the committee plus two other members of the Committee, but that this should not affect the principle that any three members or their substitutes of the Committee will constitute a properly appointed panel;
- to authorise the Head of Legal and Democratic Services to invite an appropriate panel to conduct a scheduled hearing having regard to members' availability and eligibility to take part.

Terms of reference

4. The Panel's **terms of reference** are to deal with matters referred to it by the licensing officer under the Taxi Licensing Policy as specified:

Matter to be dealt with	Circumstances in which Panel will determine case
General: Applications outside the guidelines in the Taxi Licensing Policy (paragraph 19)	Applications which fall outside the guidelines in the policy and which are referred to the Panel by the licensing officer.
Unfitness due to medical reasons (paragraph 85)	Where any doubt as to the fitness (or otherwise) of an applicant remains after the results of a medical examination by a medical practitioner appointed by the council.
Applications disclosing relevant but spent convictions under the Rehabilitation of Offenders Act 1974, Town Police Clauses Act 1947, Part II of the Local Government (Miscellaneous Provisions) Act 1976 of the (as set out in paragraph 98, Appendix C, Appendix E 9)	The licensing officer will refer these to the Panel for consideration

<p>Applications disclosing information that does not automatically lead to a refusal, but where the licensing officer considers the applicant is not a fit and proper person (paragraph 98 and Appendix C, Appendix E)</p>	<p>The licensing officer will refer these to the Panel for consideration</p>
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5. Appeals against decisions of the licensing officer and the decisions of the Taxi Licensing Panel are heard at the local Magistrates' Court.

Changes to the Council's Constitution

6. Some of these decisions may result in consequential changes to the Council's Constitution. These will be reported to Council at its meeting on 19 February and Council asked to approve the changes.

Suspensions, revocations and other matters.

The Council's Constitution states:

7. Part 2: The General Licensing Committee is responsible for all functions for which the Council is the responsible authority in relation to licensing and registrations specified in Regulation 2 and Schedule 1 to the Local Authorities (Functions and responsibilities) (England) regulations 2000 and any amendments thereto.
8. Part 3 paragraph 103: Head of Environmental Services to deal with all matters relating to applications for licences, permits and registrations.
9. Part 3 paragraph 107: Head of Environmental Services in consultation with the Chairman of the General Licensing Committee (has power) to suspend or revoke a licence.
10. There is a general principle that where a function has been delegated to an officer, or an officer in consultation with an elected councillor, the officer can refer any specific case to the appropriate committee (but not the sub-committee) which has authority to determine the matter.
11. Any function of this Committee which has been delegated to a sub-committee or to an officer can be referred by the officer or the sub-committee to the full committee for decision.

Procedure at the meetings of the Taxi Licensing Panels.

12. These procedures will govern the Taxi Licensing Panel hearings but revisions can be made by officers if required.

13. Procedure

The Panel will receive the Licensing Officer's report 5 working days before the meeting. The report will be sent to the applicant at the same time.

The Panel will consist of any 3 members or substitutes of the General Licensing Committee.

The meeting can be held with two members of the Panel provided the Licensing Officer and the applicant agree.

Papers will be confidential and the meeting will be held in private under the provisions of Part 1 of Schedule 12A Section 100A(4) of the Local Government Act 1972 and as amended by the Local Government (Access to Information) (Variation) Order 2006.

If any party does not attend the hearing the Panel can continue with hearing in the absence of any party.

The applicant can send in written information before the hearing. The applicant can appoint a representative to present his case, but must also attend the hearing in person.

The procedure at the hearing can be varied at the discretion of the Panel's Chairman.

At the hearing:

All Panel members introduce themselves.

Others at the hearing introduce themselves.

The Licensing Officer or his representative will introduce the case and give background and reasons for his recommendation, including hearing from any witnesses.

The officer and any witnesses answer any questions either from the Panel or the applicant.

The applicant or a representative addresses the Committee and calls any witnesses.

The Panel or the officer asks any questions of the applicant or their representative, and any witnesses.

The officer and applicant may make any concluding statements.

The officer gives his recommendation with reasons.

The applicant and the officer then leave the hearing. The Panel, assisted by their clerk and legal adviser, make their decision in private.

The applicant will be informed in writing within 7 days of the hearing of the decision and any right to appeal.

The Panel can make the following decisions:

- Grant the licence.
- Refuse the licence.