

CHESHIRE EAST COUNCIL

Licensing Committee

Date of Meeting: 5th November 2012
Report of: Miss Kim Evans, Licensing Team Leader
Subject/Title: Amendments to the Licensing Committee Scheme of Delegation

1.0 Report Summary

1.1 This report seeks Members' approval for a number of amendments to the Licensing Committee Scheme of Delegation.

2.0 Recommendation

2.1 That Members approve the following amendments:

- i. That Officers are given delegated authority to refuse applications for Joint Driver Hackney Carriage/Private Hire Licences where the application does not have or cannot establish that they have the right to work in the UK.
- ii. That Officers are given delegated authority to review, update, and amend the driver knowledge test, including the consideration and implementation of an appropriate numeracy/language skills test.
- iii. That a full review of the current scheme of delegations is undertaken and that the details of the review and any subsequent proposals are presented to a future meeting of the Licensing Committee.

3.0 Reasons for Recommendations

3.1 To enable the Licensing Section to process applications in a more efficient and effective way. Similarly, enhanced delegations to Officers would ensure that the Committee's time would be utilised more effectively without causing a reduction in standards.

3.2 The Licensing Committee has the delegated authority to determine such matters in accordance with the Council's Constitution.

4.0 Wards Affected

4.1 All

5.0 Local Ward Members

5.1 Not applicable

6.0 Policy Implications

6.1 None

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

7.1 None

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 The Licensing Authority is empowered by section 46 of the Town Police Clauses Act 1847 and section 51 of the Local Government (Miscellaneous Provisions) Act 1976 to issue licences to drive Hackney Carriage and Private Hire Vehicles.

8.2 Additionally, section 59 (1) (a) (in relation to hackney carriage drivers licences) and section 51 (1) (a) (in relation to private hire drivers licences) of the 1976 Act state that the Council shall not grant a licence 'unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence'.

8.3 The fitness and propriety of an applicant is tested in a number of ways:

- Satisfactory completion of an application form
- Enhanced Criminal Records Bureau checks
- DVLA Licence check
- Medical examination
- Knowledge test

9.0 Risk Management

9.1 By virtue of the Local Government (Miscellaneous Provisions) Act 1976 a person aggrieved by a decision of the Licensing Authority may appeal to the Magistrates' Court within 21 days of the decision being made.

10.0 Background and Options

10.1 At a meeting of the Council on 9th December 2009 it was resolved that all licensing functions be delegate to the Licensing Committee. Due to the volume of applications which require determination, it was further resolve that a scheme of delegation to both Licensing Sub-Committees and Officers be establish. The current scheme of delegation is set out at Appendix A.

10.2 There have been a number of changes in case law and working practices that can be better reflected in an updated scheme of delegation.

10.3 There has also been an increase in the number of driver applications where the applicant is resident in the UK on a specific type of visa and consequently is not entitled to work. It would therefore be more efficient for these

applications to be refused at Officer level thereby freeing the Committee's time to consider more complicated or contentious applications.

- 10.4 A benchmarking exercise has been undertaken, which shows that neighbouring Licensing Authorities have been operating a more rigorous testing regime. This leaves Cheshire East vulnerable to applications being made for driver and vehicle licences where the applicant intends to operate in a different Local Authority area. Whilst this is permissible, it presents a number of challenges, including; the difficulty of taking any enforcement action against a driver or unsafe vehicle, and dealing with issues or complaints that take place outside of the Borough.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Appendix A – Scheme of Delegation

Name: Miss K Evans

Designation: Licensing Team Leader

Tel No: 0300 123 5015

Email: kim.evans@cheshireeast.gov.uk