

Report from the Assistant Director – Planning and Public Protection

Council's Constitution - Licensing Appeals

Summary

1. This report seeks Members support for the approval to change the Council's Constitution in relation to the current procedure with regards to appeals relating to licensing decisions.
2. The report seeks a recommendation to Full Council that this change to the Constitution is approved.

Recommendations

3. That Members approve Option 1 of this report and recommend to Full Council that this new procedure is approved.

Reason: This will allow applicants/licence holders who are aggrieved by a decision made by an Officer of the Council to appeal that decision in line with the requirements of the relevant legislation.

Background

4. Who can do what in relation to decisions made by the Council is set out in the Delegation Scheme which is part of the Council's Constitution.
5. Within the Council's Constitution certain licensing decision are delegated to Officers, for example decisions to refuse hackney carriage and private hire vehicle, driver and operator licences, and to suspend or revoke these licences.
6. Within relevant legislation there is provision for an applicant or licence holder who is aggrieved by a decision made by an Officer on behalf of the Council, to appeal that decision to Magistrates Court.

7. The Council's Constitution also offers the applicant/licence holder the right of appeal to the Environmental Appeals Committee. Therefore the Council provides two rights of appeal.
8. The delegation to Council Committees and Other Bodies is dealt with in Section 3C of the Constitution. Part 6.4 of Section 3C details the functions which are delegated to the Environment Appeals Committee, in relation to this report these are:

No.	Delegated authority	Conditions
1	* To determine appeals against action taken by Officers in the grant, refusal, variation and revocation of licences, consents or permits issued where relevant legislation requires an appeals process to be available to the parties to the application.	
2	* To determine appeals against refusal to issue or revocation of a hackney carriage vehicle or drivers' licence, or private hire vehicle, drivers' or operators' licence.	Except on the grounds of quality control.

9. The current procedure followed by the Council if a licence application is refused, or a licence is revoked/suspended is to offer the applicant/licence holder both rights of appeal within the decision letter.
10. An appeal to the Environmental Appeals Committee must be made within 14 days of the decision notice being served. An appeal to the Magistrates Court must be made in accordance with the requirements of the legislation, which is normally within 21 days of the decision notice being served. The applicant/licence holder can only appeal the Officer decision; therefore if they only appeal to the Environmental Appeals Committee they do not have the right to then appeal that decision to the Magistrates Court.

Consultation

11. A consultation has not taken place in relation to this report.

Options

12. Option 1 – Recommend to Full Council that the Council's Constitution is changed and a new procedure for dealing with licensing appeals is approved. In line with the requirements of relevant legislation licence applicants and licence holders can appeal a decision made by Officers to refuse/suspend/revoke to the Magistrates Court, thereby no longer providing an internal appeals process.
13. Option 2 – Recommend to Full Council that a change to the Council's Constitution in relation to the internal appeals process is approved. Licence applicants and licence holders can appeal a decision made by Officers to refuse/suspend/revoke to a Sub-Committee of the Gambling, Licensing and Regulatory Committee. In line with the relevant legislation licence applicants/holders will also be able to appeal Officers decisions to Magistrates Court.
14. Option 3 – Take no further action.

Analysis

15. By removing points 1 and 2 in the table detailed in paragraph 8 above, applicants/licence holders will still have the right of appeal if they are aggrieved by a decision made by Officers; this right of appeal will be in accordance with the requirements of the relevant legislation.
16. Within the last 12 months the Council, by way of an Officer decision, has:
 - not refused any applications for licences;
 - suspended four licensed private hire driver licences, on the grounds of public safety (not meeting the Group 2 medical standard);
 - suspended two hackney carriage driver licences, on the grounds of public safety (not meeting the Group 2 medical standard);
 - suspended one hackney carriage driver licence, on the grounds of not currently been a fit and proper person;
 - suspended one hackney carriage vehicle licence, on the grounds of not completing the six month safety inspection;
 - revoked two licensed private hire driver licences, on the grounds of public safety.

17. There have been two appeals to the Environmental Appeals Committee by licence holders aggrieved by the Officer decision to revoke their driver licences. On each occasions Members upheld the decision made by Officers.
18. One of the licence holders aggrieved by the Officer decision to revoke their driver's licence has also appealed to Magistrates Court. This appeal has not being heard at this time.

Council Priorities

19. This will support the Council's plan of a prosperous city for all, where local businesses can thrive and a council that listens to residents.

Implications

20. The direct implications arising from this report are:
 - (a) **Financial** – There are no financial implications for the council.
 - (b) **Human Resources (HR)** - There are no HR implications.
 - (c) **Equalities** – There are no equalities implications.
 - (d) **Legal** – There is no legal requirement to offer an internal appeal in addition to the statutory rights to bring appeals before the Magistrates.
 - (e) **Crime and Disorder** – There are no crime and disorder implications.
 - (f) **Information Technology (IT)** - There are no IT implications.
 - (g) **Property** - There are no property implications.
 - (h) **Other** - There are no other implications.

Risk Management

21. There are no known risks associated with this report.

Contact Details

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	Report Approved	√	Date 10/04/17
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Wards Affected:		All	√
For further information please contact the author of the report			

Background papers

None