

LICENSING AND REGULATION COMMITTEE

11 February 2004

LICENSING (HACKNEY CARRIAGE AND PRIVATE HIRE) SUB-COMMITTEE

REPORT OF CITY SECRETARY AND SOLICITOR

Contact Officer: Howard Bone Tel No: 01962 848552

RECENT REFERENCES:

None

EXECUTIVE SUMMARY:

This report considers the handling of matters which involve individual cases relating to hackney carriage and private hire (mainly drivers), and recommends that a Licensing (Hackney Carriage and Private Hire) Sub-Committee is set up to hear such cases. If approved, the Council's constitution would be amended accordingly.

RECOMMENDATIONS:

- 1 That a Licensing (Hackney Carriage and Private Hire) Sub-Committee be established to hear individual cases in respect of the Council's functions of licensing hackney carriages and private hire vehicles.
- 2 That the terms of reference and appointment of the Sub-Committee be as set out in Appendix 1 to this report.

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DETAIL:

1 Introduction

- 1.1 The Committee recently considered a complaint about the conduct of a licensed Hackney Carriage driver. In the light of this, the Chairman requested that alternative methods of hearing such cases in the future be investigated.
- 1.2 This report proposes the setting up of a small sub-committee to hear future complaints. The Sub-Committee could also deal with appeals against delegated decisions taken in respect of applications for hackney carriage and private hire licences. The proposals could be implemented as part of the review of the Constitution, which takes place annually at this time of year.

2 Current System

- 2.1 Complaints against drivers which require consideration by the Committee are heard using an adapted version of the standard procedure which is used for the hearing of public entertainment applications. Cases are considered by the full Committee (eleven Members), and are presented by the Licensing and Registration Officer. The driver is able to present his case and make representations. Witnesses may be called and questioned (primarily by the Licensing and Registration Officer and the driver (as appropriate), although Members may ask questions to clarify the evidence presented.
- 2.2 Having heard the facts of the case, the Committee then retires to deliberate and reach a conclusion as to whether or not the allegation is made out. If it finds the allegation is substantiated, further representations are then heard on what action should be taken.
- 2.3 Such proceedings are similar in nature to the business undertaken by Magistrates' Courts, where cases are normally heard by a bench comprising a chairman and two other magistrates. Under the new Licensing Act, it is likely that applications for Premises Licences will be dealt with by similar-sized panels of Members.
- 2.4 The fact that the full Licensing and Regulation Committee hears these cases may well make the proceedings more intimidating for both the driver involved, and the witnesses who are called to give evidence. It might also mean that the decision-making process takes longer.

3 Proposed Sub-Committee

- 3.1 It is suggested that for future cases of this nature, a small Sub-Committee be established, based on the arrangements which exist for Planning Viewing Sub-

Committees, although the Licensing (Hackney Carriage and Private Hire) Sub-Committee would have delegated powers to reach a decision and authorise the suspension or revocation of a licence.

- 3.2 The Sub-Committee could have a membership of three Members. The Chairman or Vice-Chairman would be members of the Sub-Committee, and the remaining two Members would be appointed on an alphabetical rota basis, subject to availability.
- 3.3 The statutory right for a driver to appeal to a Magistrates' Court against a Council's decision to suspend or revoke a licence would remain and be unaffected.
- 3.4 Pending changes resulting from the introduction of the Licensing Act 2003, consideration of other matters, such as public entertainment licence applications, would continue to fall within the remit of the full Licensing and Regulation Committee.
- 3.5 The suggested membership arrangements and terms of reference are set out in Appendix 1 to this report.

OTHER CONSIDERATIONS:

4 CORPORATE STRATEGY (RELEVANCE TO):

- 4.1 The Licensing and Regulation Committee's role affects the key priority of Economic Prosperity.

5 RESOURCE IMPLICATIONS:

- 5.1 There are no adverse resource implications if the recommendation is agreed.

BACKGROUND DOCUMENTS:

None

APPENDICES:

Proposed Terms of Reference

Appendix 1Terms of Reference and AppointmentLicensing (Hackney Carriage and Private Hire) Sub-Committee

- 1) To hear cases involving the behaviour or suitability of the holder of, or applicant for, a hackney carriage driver's licence, a private hire driver's licence, a hackney carriage or private hire vehicle licence, or an operator's licence, and to exercise the powers of the Council to suspend or revoke an existing licence, or refuse an application for such a licence;
- 2) To consider appeals by applicants against a decision of the City Secretary and Solicitor in respect of an application for such a licence.

Appointment - The Sub-Committee consists of the Chairman or Vice-Chairman and two other Members who are appointed on an alphabetical rota basis from the membership of the Committee subject to availability.