

**LOCAL GOVERNMENT (MISCELLANEOUS
PROVISIONS) ACT, 1976**

**REPORT OF ASSISTANT DIRECTOR,
LEGAL AND CONSTITUTIONAL SERVICES TO
LICENSING AND SAFETY COMMITTEE**

27 MAY, 2009

ESTABLISHMENT OF TAXI LICENSING SUB-COMMITTEES

1.0 Purpose of Report

1.1 To request the Committee to re-establish the Taxi Licensing Sub-Committees A and B on the same basis as the previous Municipal Year.

2.0 Recommendation

2.1 (a) Committee is requested to approve the re-establishment of Taxi Licensing Sub-Committees A and B to deal with the continuing backlog of applications under the Local Government (Miscellaneous Provisions) Act, 1976, the Sub-Committees to be politically balanced and to each comprise 7 Members of the Licensing and Safety Committee. One of the Sub-Committees to meet during the daytime and the other in the evening.

(b) Subject to (a) above, to nominate Members to each of the Sub-Committees.

3.0 Legal Implications

3.1 Section 51(1) of the Local Government (Miscellaneous Provisions) Act, 1976 states that a District Council shall, on receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence:-

Provided that a District Council shall not grant a licence;

(a) Unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or

(b) To any person who has not, for at least twelve months, been authorised to drive a motor car or is not, at the date of the application for a driver's licence, so authorised.

- 3.2 There is no legal definition of a “fit and proper person”, the ordinary meaning must, therefore, be attached to these words. The Licensing Authority may make such enquiries as they deem necessary to establish whether an applicant is a “fit and proper person”. The application from a private hire/hackney carriage licence requires the applicant to disclose any convictions and a routine check is made with the Criminal Records Bureau, which is an executive agency of the Home Office, for confirmation of any convictions or pending convictions. Information relating to motoring convictions is obtained from the applicant’s driving licence or by application to the DVLA for a mandate.
- 3.3 Members should consider each case on its own merits, including:-
- (i) the nature of the offence;
 - (ii) how long ago the offence was committed;
 - (iii) age of the person when convicted;
 - (iv) any other relevant facts considered appropriate;
 - (v) was the offence an isolated incident;
 - (vi) any change in the person’s circumstances from when the offence was committed.
- 3.4 The fact that an applicant has convictions does not necessarily mean he/she is unfit to hold a drivers licence. A balanced judgement should be made about a persons’ suitability to hold a licence looked at as a whole in the light of all information available.
- 3.5 There is case law to support a Licensing Authority’s decision to ensure, as far as possible, that those licensed to drive a private hire or hackney carriage vehicle are suitable persons to do so.
- 3.6 A District Council may attach to the grant of a licence such conditions as they may consider reasonably necessary.
- 3.7 Section 52 of the 1976 Act states that any person aggrieved by: -
- (i) the refusal of the District Council to grant a licence under Section 51 of the Act; or
 - (ii) any conditions attached to the grant of a drivers licence may appeal to a Magistrates Court.
- 3.8 Any appeal must be made to the Magistrates Court within 21 days of notification of such a decision.

3.9 Suspension and revocation of drivers licences.

- (1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a District Council may suspend or revoke or (on application, therefore, under Section 46 of the Act of 1847 or Section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:-
 - (a) that he has, since the grant of the licence:-
 - (i) been convicted of an offence involving dishonesty, indecency or violence; or
 - (ii) been convicted of an offence under, or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or
 - (b) any other reasonable cause;
- (2)
 - (a) Where a District Council suspend, revoke or refuse to renew any licence under this section, they shall give to the driver notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal and the driver shall, on demand, return to the District Council the drivers badge issued to him in accordance with Section 54 of this Act;
 - (b) If any person, without reasonable excuse, contravenes the provisions of this section, he shall be guilty of an offence and liable on summary conviction, to a fine not exceeding (level 1 on the standard scale);
- (3) Any driver aggrieved by a decision of a District Council under this section may appeal to a Magistrates Court.

4.0 Financial Implications

- 4.1 The costs of any appeals to the Magistrates Court by any person aggrieved by the refusal of Walsall Metropolitan Borough Council to grant a private hire/hackney carriage licence, or any conditions attached to the grant of a drivers licence will be met from within existing budgetary provisions.

The costs of any appeals to the Magistrates Court by the suspension or revocation of a private hire/hackney carriage licence will be met from within budgetary provisions.

5.0 Equal Opportunities Implications

- 5.1 None.

6.0 Environmental Impact

6.1 None.

7.0 Other Policy Implications

7.1 None.

8.0 Background

8.1 In June, 2006, Committee was asked to approve delegations to officers within the Public Protection Unit to deal with the backlog of taxi/private hire applications under the Local Government (Miscellaneous Provisions) Act, 1976.

8.2 Committee resolved not to approve the delegations, opting instead for the establishment of Sub-Committees to deal with the backlog of applications.

9.0 Conclusion

9.1 In view of the continued build up of applications for determination and to reduce the workload of the whole Committee in relation to taxi appeals, it is suggested that consideration should be given to the re-establishment of Taxi Licensing Sub-Committees A and B for the 2009/10 Municipal Year.

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