

REPORT FROM: ASSISTANT DIRECTOR, PLANNING, BUILDING CONTROL & REGULATORY SERVICES

TO: TAXI LICENSING COMMITTEE

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**REFUSAL OF DRIVER'S LICENCE
CONSIDERATION OF THE REMOVAL OF SECTION 5.4 FROM THE TAXI LICENSING POLICY**

PURPOSE OF REPORT

To consider the removal of section 5.4 from the Taxi Licensing Policy.

RECOMMENDATION

1. That Section 5.4 from the Taxi Licensing Policy be amended to include revocations and to read 'Further applications will not normally be granted until 12 months has elapsed from the original refusal/revocation'.
2. This recommendation be referred to the Executive to add any comments before being referred to Full Council.

REASONS FOR RECOMMENDATION

1. To allow for an element of discretion when making decisions on submitted driver's applications.
2. To enable the Executive to make comments on the recommendation before being submitted to Full Council.

BACKGROUND

1. At the last meeting of the Full Council a motion was submitted to remove 5.4 from the Taxi Licensing Policy. Council resolved to refer the matter to the Taxi Licensing Committee and the Executive and that their recommendations would be considered by Council.
2. Section 5.4 states that should a licence application for the grant or renewal of a licence be refused the applicant must wait until a twelve-month period has elapsed before submitting a new application unless they are compliant with our convictions policy.

3. The reason given for removal was that Officers may not always make the correct decision and after hearing the representations of the applicant at Committee an application may be granted.

ISSUES

4. Under the scheme of delegation the decision to suspend or revoke a hackney carriage or private hire driver's licence is delegated to the head of Planning, Building Control and Regulatory Services in consultation with the Chairman of the Taxi Licensing Committee.
5. Should the application reveal a criminal or motoring conviction that falls outside the Council's convictions policy then the applicant would be asked to submit their representations into the circumstances of the conviction(s).
6. Once representations are received a report is compiled and after considering these and our conviction policy a decision is made by the Service Head to either grant, refer to committee or refuse the application. Should the decision be to refuse, this is referred to the Chair of the Taxi Licensing Committee, who can call the decision in and refer it to the Taxi Licensing Committee.
7. Should the decision not be called in the applicant will be informed and if the decision is to refuse they then have a right of appeal to the Magistrates' Court within 21 days of receiving the decision.
8. This is then when section 5.4 comes into force and the applicant cannot re-apply within a 12 month period unless they are complaint with our convictions policy. This only applies to refusals and not revocations or suspensions, however, it is recommended that the 12 month period should also apply to revocations.
9. Decisions are fully explained and justified in the reports that are compiled and decisions can be challenged in court. The process has the balance of each report being referred to the Chairman of the Committee who considers them and ensures that there is agreement as to the veracity of the conclusion reached.
10. The policy of not accepting applications for another 12 months is to ensure several things happen. It ensures that application that are submitted are robust and that applicants put full and frank applications in.
11. It ensures that repeat applications are not submitted to simply try and wear the local authority down. There are applicants who have put repeat applications in with the hope of getting a different decision due to the persistent approach to reapplying.
12. Most significantly though it ensures that there is a period of time in which a meaningful change in circumstance could have occurred and that allows an applicant to have time to deal with the causes of the refusal or revocation.
13. An applicant is given the opportunity to submit representations in respect of their application and the Chair can call an officer's decision in and refer the application to the Taxi Licensing Committee.
14. Our convictions guidelines policy was adopted in April 2022 and is the recommended policy from the Statutory Taxi & Private Hire Vehicle Standards issued by the Department for Transport. This is the policy we refer to when making decisions and we require good reason to depart from these when making decisions on applications. Of the decision made and of the

11 challenged in court over the last 2 years the courts have upheld all but 3 decisions. One that was allowed had been delayed from getting to court for over 12 months in which time the operator had altered their procedures and that persuaded the court that they were now fit and proper to hold a licence; one was dismissed due to our lay member of public giving inconsistent evidence and the other was dismissed as no evidence was provided from the 3rd party witness. The robustness of the decision making process is demonstrated by the courts upholding those decisions.

15. In respect to the above, it is however recommended that the wording is amended to 'Further applications will not normally be granted until 12 months has elapsed from the original refusal/revocation'. This will allow for an element of discretion on an application submitted within a 12 month period and not a refusal to accept an application.

CONCLUSIONS

16. The policy that has been operated is one adopted by the Council and has been put in place for sound reasons. It is operating successfully and the decisions that have been made within the current decision making scheme have been proved to be sound and robust. The scheme has within it Member involvement with the Chairman being consulted on all proposed decisions.
17. The removal of the 12 month limit will bring more pressure on Committee to relook and reverse decisions that the Council has already made and this will inevitably bring inconsistency in decision which in turn will promote more unnecessary and unjustified early resubmissions.
18. There seems no empirical evidence of the current policy not working and no justification for altering a process that is robust and works well. However, as the 'must wait' 12 months takes away the element of discretion on applications, the wording as set out at point 15 is recommended.

IMPLICATIONS

Policy:

The taxi licensing policy adopted on 1 April 2022 will require updating to reflect any agreed changes.

Financial:

There is an administration cost for each application that is refused as no fee can be charged if a licence is not granted.

Legal:

There should be robust reasons to depart from the Taxi Licensing Policy should a departure be made from the convictions guidelines policy.

Risk Management:

There are no risk management implications arising directly from this report

Health and Safety:

There are no health and safety implications arising directly from this report

Sustainability:

There are no sustainability implications arising directly from this report

Community Safety:

There are no community safety implications arising directly from this report

Equality and Diversity:

There are no equality and diversity implications arising directly from this report