

Regulatory Committee

14 June 2023

Report title	Review of decision making in 2022 - 2023 and the scheme of delegation for 2023 - 2024	
Wards affected	All	
Accountable director	John Roseblade, Director of Resident Services	
Originating service	Licensing	
Accountable employee	Greg Bickerdike	Licensing Manager
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Report to be/has been considered by	None.	

Recommendations for decision:

The Regulatory Committee is recommended to:

1. Endorse and approve the proposals in section 2 of this report relating to category 2 decisions.
2. Endorse and approve the proposals in section 2 of this report relating to category 3 decisions.
3. Delegate category 3 decision making powers to the Director of Resident Services.
4. Agree to receive further annual delegation update reports at the beginning of each municipal year.

Recommendations for noting:

The Regulatory Committee is asked to note:

1. The schedule attached at Appendix 1 to this report which includes further proposed delegations from the Director of Resident Services.

2. The schedule of employee decisions for 2022 - 2023 attached at Appendix 2 to this report in relation to new hackney carriage and private hire applications.
3. The schedule of employee decisions for 2022 - 2023 attached at Appendix 3 to this report in relation to hackney carriage and private hire reviews.
4. The schedule of decisions for 2022 - 2023 attached at Appendix 4 to this report in relation Magistrates and Crown Court appeals.

1.0 Purpose

- 1.1 To seek the endorsement and approval of a proposed decision-making process and the proposed delegations in relation to category 3 decision making powers to the Director of Resident Services.
- 1.2 To draw Councillors' attention to the delegations document attached at Appendix 1 which includes proposed delegations from the Director of Resident Services to officers within Commercial Regulation.

2.0 Background

- 2.1 The Regulatory Committee has responsibility for a wide range of licensing functions. These relate principally to the issue of licences, permits, registrations, consents and their enforcement.
- 2.2 Councillors will be most familiar with taxi related matters. However, there are many other matters that are only occasionally brought to Councillors' attention for consideration e.g. sex establishments.
- 2.3 The licensing system is configured to allow the proper discharge of functions and operates through the Regulatory Committee either taking decisions themselves or through the delegation of decisions to officers.
- 2.4 The aim of the delegation scheme is the achievement of a proper balance of responsibilities to enable the service to be delivered in an efficient and effective manner.
- 2.5 The current approval arrangements categorise decisions into three categories:

Current Decision-Making Progress

Category	Who takes the decision?	Type of decision
1	Full Committee	Policy matters and those which have significant political, financial implications including fees and charges or service delivery issues
2	Sub Committee	Contentious applications for new and existing permissions/consents and licences to include suspensions and licence revocations, where appropriate and in accordance with agreed policy/criteria responsibility for any function as prescribed by statute
3	Delegated to Officers	Determination of consents, permits, registrations, licence applications and reviews, to include contentious applications for new and existing permissions/consents and licences, where relevant and in accordance with agreed policies/criteria

3.0 Delegation of Category 2 and 3 Decisions

- 3.1 On 30 May 2012 the Licensing Committee considered a report on the review of decision making.
- 3.2 This report set out a review process for officer delegations.
- 3.3 Licensing Services produced a policy document which included a list of current and proposed delegation to officers for a range of decisions.
- 3.4 The Licensing Committee confirmed and endorsed category 2 and category 3 decisions and the continuation of the existing regime of officer delegations and approved delegation of category 3 decisions, to the Strategic Director for Education and Enterprise. This ensured the ongoing delivery of routine, non-contentious licensing functions in accordance with agreed policies and procedures.
- 3.5 Councillors agreed that an updated delegation report be presented to Committee on an annual basis to the first meeting of the municipal year.
- 3.6 The Regulatory Committee are asked to endorse and approve the delegation of category 3 decision making to the Director of Resident Services.
- 3.7 The delegations document attached at Appendix 1 has been updated throughout the year and includes proposed delegations from the Director of Resident Services to officers within Commercial Regulation.
- 3.8 Should Councillors agree with recommendations within this report the proposed delegations document will be authorised by the Director of Resident Services.

4.0 New Driver Licence Applicant Hearings

- 4.1 The following table summarises the data in Appendix 2.

Outcome	2021-22	2021-22 Percentage	2022-23	2022-23 Percentage
Defer	22	4.7%	102	11.7%
Failed to attend	10	2.2%	23	2.6%
Grant	265	57.1%	503	57.6%
Refer to Sub-Committee	2	0.4%	0	0.0%
Refuse	163	35.1%	244	27.9%
Withdrawn	2	0.4%	2	0.2%
Total	464		874	

4.2 It should be noted that whilst the number of hearings undertaken has nearly doubled, the grant rate is consistent with last year. Deferrals have increased, likely for more information from other licensing authorities as last year saw a greater proportion of applicants from other councils who were already licensed drivers.

5.0 Existing Driver Hearings

5.1 The following table summarises the data in Appendix 3.

Outcome	2021-22		2022-23	
	2021-22	Percentage	2022-23	Percentage
Defer	15	3.3%	57	7.0%
Failed to attend	53	11.8%	63	7.7%
Grant Renewal	146	32.5%	93	11.4%
No Further Action	60	13.4%	162	19.8%
Refer to Sub-Committee	0	0.0%	2	0.2%
Refusal to renew	26	5.8%	30	3.7%
Revocation	25	5.6%	42	5.1%
Revocation with Immediate Effect	70	15.6%	128	15.6%
Revocation and Refusal	0	0.0%	2	0.2%
Surrendered	0	0.0%	6	0.7%
Suspended with Immediate Effect	0	0.0%	2	0.2%
Suspension	9	2.0%	147	17.9%
Withdrawn	1	0.2%	5	0.6%
Warning	44	9.8%	80	9.8%
Total	449		819	

5.2 It should be noted again that whilst the number of hearings has nearly doubled, the proportion of revocations and immediate revocations is consistent.

5.3 Notably, the number of deferrals, suspensions and no further action has increased significantly. This is due to the issues drivers face with the Disclosure and Barring Service (DBS) Update Service. Drivers are now required to maintain a DBS Update Service subscription throughout the lifetime of their licence. This allows the Council to undertake daily checks of their criminal record, a frequency which no other council matches, with most undertaking six-monthly checks.

5.4 However, this service comes at a cost to the driver, in the form of a £13 annual subscription fee. It is a condition of licence that drivers must maintain this subscription. Unfortunately, this subscription is paid by recurring card payment, rather than direct debit. This means that if a driver receives a new bank card and does not take action to update their card details, the payment fails and the subscription will terminate. The Council is notified of this termination and drivers are required to purchase a new DBS

certificate at a cost of £53.49. Where a driver fails to do this, they are required to attend a review where the licence is normally suspended until a new certificate is provided. Once the certificate is provided, no further action is normally taken.

- 5.5 The Council has written to the DBS to lobby for Direct Debit payments; however the response was that this facility is not planned.

6.0 Licensing Decision Appeals

- 6.1 As the number of licence application and review hearings has increased, the number of appeals has also increased. Whilst there has been an increase in the number of appeals upheld against the Council, it is difficult to draw conclusions from the data due to the low overall number of upheld appeals. The rate at which appeals have been upheld over the last five years has been inconsistent, showing no overall trend.

Year	Appeals upheld	Appeals determined	Percentage
2018-19	1	13	7.7%
2019-20	1	23	4.3%
2020-21	1	5	20%
2021-22	0	30	0%
2022-23	3	42	7%

7.0 Financial implications

- 7.1 The recommendations in the report are designed to enable efficient and effective decision-making processes. There are no direct financial implications arising from this report.

[SB/05062023/M]

8.0 Legal implications

- 8.1 The Licensing Authorities (Functions and Responsibilities) (England) Regulations 2000 Schedule 1 specifies a range of functions which are not to be an executive responsibility and this includes licensing and registration functions.
- 8.2 The Regulatory Committee has been appointed to exercise the Council's functions relating to the processing, determination and management of licensing. Specific powers and duties are listed in the Council's constitution and some can be delegated to officers.
- 8.3 One of the main principles of the constitution is the need to be able to ascertain who is responsible for any decision made by or on behalf of the Council and this is particularly so for officer delegations which must be comprehensive.

[MAK/05/06/2023/M]

9.0 Equalities implications

- 9.1 This report is not relevant to the equalities duties, listed below:
- A. Eliminating unlawful discrimination, victimisation and harassment
 - B. Advancing equality of opportunity
 - C. Fostering good community relations

9.2 Therefore, there are no equalities implications.

10.0 All other Implications

10.1 There are no other direct implications.

11.0 Schedule of background papers

11.1 Review of Decision Making 2021-2022 - Regulatory Committee - 15 June 2022

11.2 Review of Decision Making 2021 – 2022 - Regulatory Committee - 9 June 2021

11.3 Review of Decision Making 2019 - 2020 - Non-Statutory Licensing Committee – 27 May 2020

12.0 Appendices

12.1 Appendix 1: Regulatory Committee – Committee/Sub-Committee/Officer Delegations

12.2 Appendix 2: New hackney carriage and private hire applications

12.3 Appendix 3: Hackney carriage and private hire reviews

12.4 Appendix 4: Magistrates and Crown Court appeals