



**SURREY HEATH BOROUGH COUNCIL**  
**SCHEME OF DELEGATION OF FUNCTIONS TO OFFICERS**  
**CHIEF OFFICERS – URGENT ACTION REGULATORY FUNCTION**

**Consultation by Chief Executive/Director or Head of Service involved with relevant Chairman (or Vice)**  
**Chairman of the relevant Committee**

To Councillor:	<u>Cllr David Hamilton</u>
Chairman of	<u>Licensing Committee</u>
Proposed Action:	To delegate to the Council's Legal Services Manager, the power to determine applications relating to licensing of private hire vehicles and hackney carriage vehicles where those vehicles do not satisfy the Council's standard requirements.
Purpose:	To allow the grant or refusal, of applications for private hire and hackney carriage vehicle licences where the Council's standard requirements are not met.
Justification for Urgent Action:	A previous amendment to the Constitution's Scheme of Delegation has created an ambiguity as to which applications can be determined by the Scheme of Delegation of Functions to Officers. The wording may be read to mean that such applications can only be determined through the Scheme if the standards are not met and that such vehicles are designed to give lower than average emissions. This was not the intention of the amendment and the concern is that if there is an appeal against a decision to refuse, the Council's decision made through the operation of the Scheme of Delegation could be argued to be ultra vires.
Background:	There are several applications awaiting determination where the Council's standard requirements are not met and the exception from the Standard being sought, does not relate to the level of emissions.
Proposal:	To allow the Legal Services Manager the authority to determine all private hire and hackney carriage vehicle applications.
Existing Policy:	The Council has a policy that sets standards for the licensing of all new and renewal applications for private hire and hackney carriage vehicle licences.
Corporate Policy:	The Council's policy is contained within "Guidelines with regard to age limits submitted for licensing as Hackney Carriages and Private Hire Vehicles".
Legal Advice:	The Council's Scheme of Delegation allows designated officers to determine applications for private hire and hackney carriage vehicle licences. However, there is an ambiguity within the wording of the Delegation that may allow a challenge to a determination made by those Officers who hold the delegated powers. To avoid any legal

challenge to the right to determine such applications where the Council's standards are not met, the Council's position would be protected by seeking this urgent action to allow the required determinations to be made now so as to avoid any hardship to applicants and to allow the Officers to make the decisions it was envisaged they should make. The Legal Services Manager will be seeking amendments to that part of the Scheme of Delegation in the Council's Constitution to avoid this ambiguity.

Environmental Impact:

None

Resource Implications:

None. The current procedures would not change.

Contact Officer for


Further Information: Amardip Healy, Legal Services Manager

Signed: 

Date: 6 July 2010

~~Director of~~  
Head of Legal and Corporate Services

I agree/disagree with the above action proposed.

Signed: 

Date: 9 July 2010

Vice Chairman of the Licensing Committee

Signed:



Date: 13<sup>th</sup> July 2010.

Cllr John May  
Mayor of Surrey Heath Borough Council