

Taunton Deane Borough Council

Licensing Committee – 26 August 2015

Licensing Regime for Hackney Carriage/Private Hire Drivers and Private Hire Operators

Report of the Licensing Manager

(This matter is the responsibility of Executive Councillor Patrick Berry)

1. Executive Summary

Members are asked to consider the licensing requirements for Hackney Carriage/Private Hire Drivers and Private Hire Operators within Taunton Deane and the recommendations set out at section 11 of the report with regard to the introduction of new policies regarding out of area applicants and cross-border hiring.

2. Background

- 2.1** The overarching aim of taxi licensing is public safety. Through the implementation of its policies the Council as Licensing Authority seeks to ensure that members of the public travel in safety in well maintained vehicles driven by competent drivers, as well as ensuring the provision of a fair and reasonable service for the licensed trade.
- 2.2** Cross border hiring describes a taxi being used for private hire purposes outside of the district in which it has been licensed or when a private hire vehicle picks up a passenger from another district. It is a legal and legitimate activity but has the potential to cause problems with monitoring and supervision of the licensed fleet.
- 2.3** Under the legislation, in most circumstances, a Licensing Authority may only take action against a vehicle or driver that it has licensed and is therefore unable to act, unless a criminal activity has taken place, against vehicles operating within its area that are licensed elsewhere. This leaves the authority powerless to intervene if the driver contravenes any licence condition or provides a poor quality service to passengers
- 2.4** Recently there has been a marked increase in the number of applications from applicants who reside outside of the district (the majority of which have Bristol residences) and although their motives are examined through the Knowledge & Suitability Interview, evidence received from the licensed trade and Bristol City Council shows that many of these are operating entirely or predominantly away from the Borough.

- 2.5** Taxi forum members have identified the issuing of licences to out of area applicants as an area of major concern to the trade.
- 2.6** Sadly, national events have also identified Safeguarding concerns over the activities of taxis in Child Sexual Exploitation and highlighted that Councils should assume that CSE is present and preventative activity must be put in place.

3. Report

- 3.1** Although not an unlawful activity, there are potentially undesirable consequences of taxis and drivers licensed by the Council operating remotely from it, as the Council has to supervise these drivers and vehicles from a distance and faces difficulty in keeping them under observation.
- 3.2** The most notable case law on this subject was between Newcastle City Council and Berwick Borough Council. Here, the Judge did not find that the granting of licences to people who intended to operate remotely was unlawful but did conclude that the intention of the licensing system was that “it should operate in such a way that the authority licensing hackney carriages is the authority for the area in which those vehicles are generally used.”
- 3.3** Recently Officers have observed a substantial increase in the number of applications and enquiries from applicants who do not reside within Taunton Deane. In the absence of a policy to the contrary, these applicants, having been found suitable through the normal licensing regime, have been licensed. Evidence is now coming forward that indicates many of these vehicles are working entirely or predominately away from the Borough.
- 3.4** It therefore appears reasonable to expect that people who live outside of the Borough are more likely to work away from the Borough and a change of policy is considered necessary to ensure that the Authority meets its legal and social obligations.
- 3.5** Following consultation with the members of the taxi forum, it is felt appropriate that when considering an application for grant or renewal of a Hackney Carriage and Private Hire Vehicle Drivers Licence and applications for Hackney Carriage Vehicle Licences, from applicants who reside outside of the Council’s administrative boundaries, the Authority will require such evidence as it reasonably considers appropriate to make an assesment of the intention to work or proof of operating since the grant of the licence, entirely or predominately within the Council’s administrative area.
- 3.6** When considering such evidence the Authority have regard to the following
- i. The residential address of the applicant
 - ii. Any offer or contract of employment from or with a company or operator based within the Borough.

- iii. The monetary value of work that starts and finishes within the Borough and that which does not.
- iv. Any activities carried out by the applicant that may influence where they might work.
- v. Whether they will carry out the role full time or not.
- vi. Any other information that the Council considers relevant.

3.7 The policy changes recommended within this report and the report recommending changes to the Knowledge & Suitability Interview (also before this Committee for consideration) will have an impact on the resources of the licensing team and will increase the cost to those wishing to become licensed. However these increases, for the reasons set out above, will ensure that genuine applicants retain the opportunity to be licensed, where appropriate, while all reasonable steps are taken to protect the public.

4. Finance Comments

4.1 No direct financial implications.

5. Legal Comments

5.1 The recommendations set out in this report would meet the requirements of the legislation.

6. Links to Corporate Aims

6.1 The introduction of the new policies will promote the provision of an effective licensing regime which benefits local businesses and the public alike in full accordance with the Council's Corporate Strategy.

7. Environmental and Community Safety Implications

7.1 The introduction of the new policies will support the Council's Safeguarding and Child Sexual Exploitation Policy.

8. Equalities Impact

8.1 No adverse equality impact identified.

9. Risk Management

9.1 The risks highlighted within the report will, in the opinion of officers, be mitigated by the more robust checks being undertaken at grant and renewal.

10. Partnership Implications (if any)

10.1 None.

11. Recommendations

11.1 That Members approve the adoption of a new policy that the Authority will refuse applications made by those persons residing (at the time of submission of their application) outside of the administrative boundaries of the Council, unless the applicant can prove to the satisfaction of the Authority, that they genuinely intend to work or do work entirely or predominately within the Borough.

11.2 That Members approve the adoption of a new policy that where the Authority believes that a licensed driver is not working entirely or predominately within the Borough then it may suspend or revoke that person's Hackney Carriage and Private Hire Vehicle Driver's Licence together with any vehicle licence associated with that individual.

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