

## RIBBLE VALLEY BOROUGH COUNCIL REPORT TO LICENSING COMMITTEE

Agenda Item No. 7

meeting date: 31 AUGUST 2010  
 title: ENFORCEMENT ISSUES – CROSS BORDER HIRINGS  
 submitted by: LEGAL SERVICES MANAGER  
 principal author: DIANE RICE

### 1 PURPOSE

1.1 To seek instructions from Committee about possible enforcement action against licence holders working in adjacent boroughs.

1.2 Relevance to the Council's ambitions and priorities

- Council Ambitions - } The Council aims to be a well managed Council and to help make peoples lives safer. The
- Community Objectives - } licensing of private hire and hackney operators, drivers and vehicles, by checking the suitability of
- Corporate Priorities - } drivers and vehicles and them inspecting to ensure licence holders comply with the terms of
- Other Considerations - } their licence contributes to this objective.

### 2 BACKGROUND

2.1 The Licensing Manager employed by Hyndburn Borough Council (HBC) has contacted this Council to discuss how to resolve problems arising as a result of drivers licensed by Ribble Valley Borough Council (RVBC) working in Hyndburn.

2.2 The activities taking place can be summarised as follows: hackney vehicle drivers, using hackney vehicles registered with this Council, are carrying out private hire work in Hyndburn. It has not been possible to clarify whether this work has been pre-booked with the driver, or pre-booked via an operator, and if via an operator whether the operator is licensed here or in Hyndburn, or in fact whether the work is really hackney work.

2.3 The scale of problems has not been qualified, however Hyndburn is receiving complaints from its own licence holders relating to RVBC drivers.

### 3 ISSUES

3.1 The legal position is complex, in that there is conflicting case law about the necessary licences required for work of a given nature, in each area.

3.2 Some operators are seeking to rely on a case dating from 2008 [R C Newcastle CC/(C) v Berwick upon Tweed BC(D)] to sanction the practice of hackney drivers with hackney vehicles carrying out private hire work, not booked through an operator, in an area where the hackney driver and vehicle are not licensed.

3.3 The case has been reviewed as part of further legal proceedings and a decision is expected shortly. Details will be reported to Committee if the judgement is received before the next meeting.

- 3.4 The situation is complicated by the use of computerised systems which may have the capacity to route calls in such a way as to avoid contravening the licensing requirements, but are not necessarily in use in all cases, or used to that effect.
- 3.5 The important issue for this Committee to decide is what action, if any, to take to address the problems generated by Ribble Valley Borough Council (RVBC) licence holders operating outside the area controlled by RVBC.
- 3.6 Amongst the issues for consideration are:
- 1) Reciprocal staffing arrangements.
  - 2) Variation of existing conditions.
  - 3) Managing the supply of hackney vehicles.

1) Reciprocal Staffing Arrangements

The Council's enforcement staff do not routinely visit neighbouring boroughs as part of their checks on licence holders. Until recently, it was generally accepted by licence holders that only in very limited circumstances could licence holders travel into other boroughs whilst working eg to complete a journey booked and started within the Council's area.

The Licensing Manager at Hyndburn has asked this Council to enter into reciprocal arrangements for the authorisation of staff carrying out enforcement. This option would ensure Hyndburn staff could sanction Ribble Valley Borough Council licence holders (and vice versa) if observed in their respective boroughs. However, there are some problems which would have to be overcome, for example access to this Council's records, training on the different licensing regimes and policies in each area, (Hyndburn do not have an infringement scheme) and additional risk assessments.

2) Variation of existing conditions

Committee could consider other practical measures eg variation of the Council's current conditions for private hire operators. These currently provide as follows:

"The operator shall not employ as a driver any person who does not have a current drivers licence and a current private hire drivers licence and badge nor allow any driver to drive a vehicle whilst not being insured sufficiently to protect passengers in the event of claims for death or bodily injury."

These conditions could be modified to include, for the avoidance of doubt, that the licence must be issued by this authority.

This would enable the Council to prevent the use within its area of vehicles licensed elsewhere (not a problem as yet). However, a similar condition, would have to be imposed by Hyndburn if they wished to control their own operators.

Each authority would then relay information to the other, but the authority taking action would always be the authority which issued the licence.

However, this course of action would not directly affect drivers who hold a hackney licence, and in reliance on the Newcastle case, might seek to argue that they can carry out private hire work in any area.

3) Managing the supply of hackney vehicles

The Council could respond to the current change in work carried out by hackney vehicles by amending the way it licenses hackney vehicles, for example by removing the current restriction on numbers, which in turn based on the assumption that there is currently 'no unmet demand'.

It would be difficult to maintain the Council's position ie that it currently licences the correct number of hackney vehicles, for the local market when certain of those vehicles are regularly working in adjacent boroughs.

The restriction of numbers of hackney vehicles creates a better market for those who hold hackney vehicle licences in the borough, and the potential loss of this may act as an incentive to licence holders to cease working elsewhere.

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications

- Resources - }
  - Technical, Environmental and Legal - }
  - Political - }
  - Reputation - }
- The Council, as the licensing authority, would need to consult licence holders, and also ensure that the action proposed is proportionate.

5 **RECOMMENDED THAT COMMITTEE**

5.1 Consider (subject to clarification of the legal position once the court decision is to hand), consulting licence holders in order to vary the Council's licence conditions to ensure the Council can monitor its licence holders effectively.

LEGAL SERVICES MANAGER

For further information please ask for Diane Rice, extension 4418.