

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO LICENSING COMMITTEE

Agenda Item No.

meeting date: 23 NOVEMBER 2010
 title: CHANGES TO LICENCE CONDITIONS
 submitted by: LEGAL SERVICES MANAGER
 principal author: DIANE RICE

1 PURPOSE

- 1.1 To inform Committee about the recent decision in the case of Stockton-on-Tees Borough Council v Fidler (and others), relating to the extent to which a hackney carriage licence holder can carry out private hire work.
- 1.2 To seek Committee's instructions as to the Council's response to the clarification provided by the case.
- 1.3 Relevance to the Council's ambitions and priorities
- Council Ambitions - The case has clarified the type of work Hackney Carriage drivers can carry out. The decision alters the position considerably and particularly affects enforcement. The Council is committed to make the lives of local people safer and healthier, proper enforcement aims to promote safe working by licence holders.
 - Community Objectives -
 - Corporate Priorities -
 - Other Considerations -

2 BACKGROUND

- 2.1 Committee considered this matter at its meeting in August. Problems had been identified by adjacent authorities arising from vehicles licensed by this Council working within the areas of other Councils. This practice had developed very recently and was not widespread; this was partly because it had always been accepted by hackney carriage drivers that they could only travel outside the area which licensed them to complete a booking made within the area when carrying out private hire work on behalf of operators licensed by Ribble Valley Borough Council.

The Stockton-on-Tees case established that a hackney vehicle can carry out private hire work for an operator anywhere in the country.

It is acknowledged in the judgement that this may create difficulties for enforcement and the purpose of this report is, therefore, to consider these issues.

- 2.2 The Council's current provision of enforcement manpower and the way in which this is reflected in licence fees is based on the premise that the only enforcement necessary will be:
- for journeys within the Council's area;
 - or which started within the Council's area;
 - for vehicles licensed by this Council; and
 - drivers licensed by this Council.

- 2.3 Depending on the action taken by adjacent Boroughs the Council could be in the position of having to deal with complainants and problems arising from vehicles

licensed in adjacent areas. To date the Council staff are not authorised to act for adjacent boroughs and there are problems inherent in doing this because of the different licensing regimes. It is hoped that adjacent Boroughs will take similar measures to those proposed in this report to limit this problem.

- 2.4 The Council's primary responsibility is to ensure public safety ie to ensure that all licence holders are fit and proper persons to hold a licence, and vehicles are fit for purpose. The Council has to balance this duty against the legitimate expectation by licence holders that they will be able to be as flexible as possible in the way in which they earn their living.

3 ISSUES

3.1 Enforcement etc

If licence holders from Ribble Valley were to work in other areas the Council would have no realistic prospect of enforcing against such licence holders for example, licence holders frequently fail to return plates when a licence has been suspended or expired. At present the Council's Enforcement Officer is able to contact the operator and secure return of the plates from the driver and/or contact the local police to alert them that an unlicensed vehicle is in circulation. This would not be possible if vehicles were in use countrywide.

- 3.2 There is the potential for misrepresentation to members of the public in that they would not be easily able to satisfy themselves as to whether or not a vehicle is properly licensed.

- 3.3 There is a potential disadvantage to drivers in that different authorities require different standards when licensing their drivers and vehicles. Drivers could opt to obtain a hackney licence in an area which has no limit and then carry out work within the Council's area thereby circumventing the Council's licensing policies and procedures, which have been based on careful consideration of what is most in the public interest.

- 3.4 An additional issue which Committee should consider is that the Council currently restricts the number of hackney carriage vehicle licences. The effect of this is that there will be a limited number of hackney vehicles from the Ribble Valley able to carry out work in adjacent areas. In the event that the Council's hackney drivers carried out work in other areas then this would tend to prejudice the position currently maintained by the Council that there is no unmet demand for services in its area.

3.5 Controls

Committee is therefore asked to consider whether or not it would be appropriate to consult licence holders with a view to amending the current conditions attached to the following licences:

- private hire operator;
- hackney carriage vehicle;
- hackney carriage driver.

- 3.6 The amendments proposed to the licences would be as follows:

Private Hire Operator - A condition which requires that all work for which the operator makes bookings would be carried out using vehicles and drivers who hold a current Ribble Valley Borough Council licence.

3.7 Hackney Carriage Driver and Hackney Carriage Vehicle Licences - A condition would be required to the effect that the licence holder agrees to restrict private hire work based on reliance on a licence issued by this Council to work for a Ribble Valley Borough Council licensed operator.

3.8 View of Licence Holders

In order to ensure that licence holders have a proper opportunity to respond the Licensing Officers would write to all operators and hackney drivers informing them of the proposals requesting responses prior to a further report to Committee in March.

Licence holders would have to consider the balance between the additional cost which would have to be levied to ensure the Council could carry out wider enforcement functions, and the potential loss of the restriction on hackney carriage licences in order to ensure the Council is not vulnerable to challenge in relation to the issue of unmet demand.

3.9 Timetable

Private hire operator licences are renewed annually, ie all licences fall due for renewal on the 1 February 2011.

3.10 There is therefore insufficient time to consult licence holders prior to that date and report back to Committee.

3.11 It is therefore proposed that, bearing in mind that the position was only clarified on 8 October 2010, and that very few instances have been identified of Ribble Valley licence holders working outside the Borough in reliance on the issues decided in the case, that no change is made to the licences for hackney carriage licence and driver's licences until the results of the consultation exercise can be considered by Committee but that the operator's licences issued on 1 February has the new condition applied, with an assurance that this will be altered if so decided by Committee when the consultation responses are known.

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications:

- Resources – N/A.
- Technical, Environmental and Legal – The changes should ensure the Council can properly meet its duty to ensure licence holders are monitored, in the interests of public protection.
- Political – N/A.
- Reputation – N/A.

5 **RECOMMENDED THAT COMMITTEE**

5.1 Authorise the Legal Services Manager to consult licence holders about amendments to the private hire operator, hackney carriage driver and hackney carriage vehicle licence conditions.

5.2 Authorise the Legal Services Manager, with effect from 1 February 2011 to amend the conditions attached to an operator's licence as set out above.

- 5.3 Request the Legal Services Manager to report to the next meeting of Committee about the responses received to the Council's proposed changes to licence conditions.

LEGAL SERVICES MANAGER

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