

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO LICENSING COMMITTEE

Agenda Item No.

meeting date: TUESDAY, 4 SEPTEMBER 2012
 title: MARSHALLING ARRANGEMENTS
 submitted by: CHIEF EXECUTIVE
 principal author: DIANE RICE

1 PURPOSE

1.1 To confirm the proposals set out below in relation to how the Council administers the grant of an operators licence.

1.2 Relevance to the Council's ambitions and priorities:

- Community Objectives – } The Council aims to be a well-managed Council.
 - Corporate Priorities – } Involving Committee in decisions about the
 - Other Considerations – } practical administration of Council services
- supports this objective.

2 BACKGROUND

2.1 This matter was considered by Committee at its meeting on 19 June and a copy of the report prepared for that meeting, which sets out the background in full is attached as Appendix 1. The legal position is set out in the report, Members are asked to consider how the relevant legislation is applied in practice.

3 ISSUES

3.1 There is a lack of clarity relating to the requirement for an operating licence in certain circumstances, namely:

- i. where a business for example hotel or fast food outlet, makes the arrangement for a private hire journey on behalf of the customer of that business;
- ii. where the private hire operator stations a member of staff in the premises of another business and the operator's member of staff makes the arrangements; and
- iii. where the private hire operator has a second office for example a small additional booking office in a central location to attract customers at busy times

3.2 The Council is regularly asked to give advice about alternative methods of providing a private hire operating service.

3.3 Historically, the Council has allowed some leniency where the operator had a satellite or secondary base which was only used on a very limited basis.

3.4 However, the practice of having a second base is becoming more common as is the development of business relationships between, for example a hotel or nightclub,

and an operator leading to the exclusive provision of a service by the operator for customers of that business.

3.5 The purpose of bringing this matter to Committee is therefore to seek Committee's approval for the proposal that all operators, when their operating licence is next renewed, will be made aware of the requirement to licence all locations where they carry out their business. This would mean that a separate operating licence would be required for the circumstances set out above at 3.1 ii and iii.

3.6 Operators would be informed promptly of this, if approved by Committee, allowing several months for them to raise any issues eg the planning position, prior to licence renewal in February 2013.

4 RISK ASSESSMENT

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

- Resources – No implications identified.
- Technical, Environmental and Legal – Clarification on this point will assist officers and customers to comply with Committee's intentions.
- Political – No implications identified.
- Reputation – No implications identified.
- Equality & Diversity – No implications identified.

5 **RECOMMENDED THAT COMMITTEE**

5.1 Confirm that a separate operators licence must be obtained where:

- a private hire firm places a member of staff in the site of another business for the purpose of the invitation or acceptance of bookings for a private hire vehicle; and
- where the private hire firm have a second office, whether 'freestanding' or located in the premises of another business.

DIANE RICE
HEAD OF LEGAL AND DEMOCRATIC SERVICES

MARSHAL SCOTT
CHIEF EXECUTIVE

BACKGROUND PAPERS

None.

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

LICENSING/DER/EL/040912

DECISION

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO LICENSING COMMITTEE

Agenda Item No.

meeting date: 19 June 2012
 title: Marshalling Arrangements
 submitted by: Chief Executive
 principal author: Mair Hill

1 PURPOSE

- 1.1 To advise Committee of the proposed “marshalling” arrangements and seek Committee’s view on the circumstances in which an Operator’s licence is required.
- 1.2 Relevance to the Council’s ambitions and priorities
- Community Objectives - None
 - Corporate Priorities - An efficient licensing service will promote the Council’s priority of being a well-managed and efficient Council.
 - Other Considerations – None

2 BACKGROUND

- 2.1 The Council has recently received enquiries about arrangements at four separate establishments; in three of these instances the establishments have entered into contracts with a private hire firm. With regard to the fourth the Council has received complaints about an individual being present on a car park taking bookings for a private hire firm.
- 2.2 The arrangements proposed vary from a free phone being provided to the staff of the establishment to allow them to contact a specific firm, to a member of staff from the firm being present in the establishment and making the telephone calls directly. Given the number and extent of these arrangements confirmation is sought from Committee as to when a separate Operator’s licence is required.

3 ISSUES

- 3.1 The term “Operate” is defined in Section 80 of the Local Government (Miscellaneous Provisions) Act 1976 (the “**Act**”) as “‘Operate’ means in the course of business to make provision for the invitation or acceptance of bookings for a private hire vehicle...” It is therefore questionable whether when such arrangements are put in place provision is being made for the invitation or acceptance of bookings and so an Operator’s licence should be obtained for each of these establishments.
- 3.2 There is however no provision within the Act that a customer must make the booking themselves and so in situations akin to a hotel booking a taxi for a resident or a member of staff of a pub or club booking a taxi for a customer it would seem that they are acting as the agent of the passenger and accordingly that would be lawful and not require an Operator’s licence. Similarly, an advert being placed near a telephone does not amount to making provision for the invitation or acceptance of bookings.

Hence in the case of a 'portable handset' being provided to the staff of an establishment this would on the face of it appear not to require an Operator's licence.

3.3 However, the proposed arrangements in some cases go beyond this with an individual from the firm being present on the premises and taking and phoning through the booking to base with the agreement of the premises owner and in the case of the car park an individual simply being present on that car park and taking bookings. This would appear to fall within the definition of 'operate' as by the individual's presence provision has been made for the invitation or acceptance of bookings.

3.4 Committee is therefore requested to consider the different types of arrangement set out above and decide which types of arrangements will require an operator's licence.

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications

- Resources - None
- Technical, Environmental and Legal – None
- Political - None
- Reputation – A well managed licensing service will enhance the reputation of the Council
- Equality & Diversity - None

5 RECOMMENDED THAT Committee

5.1 Consider the arrangements referred to above and confirm as per 3.3 above that where an individual is present on the premises on behalf of the operator an operator's licence will be required for that premises.

MARSHAL SCOTT
CHIEF EXECUTIVE

DIANE RICE
HEAD OF LEGAL AND DEMOCRATIC SERVICES

BACKGROUND PAPERS

REF: MJH/Licensing Committee/19 June 2012

For further information please ask for Mair Hill, extension 3216