

RIBBLE VALLEY BOROUGH COUNCIL

REPORT TO LICENSING COMMITTEE

Agenda Item No. 7

meeting date: 18 June 2013
title: Proposed introduction of intended use policy.
submitted by: Chief Executive
principal author: Mair Hill

1 PURPOSE

1.1 To inform and seek Committee's opinion of the proposed introduction of intended use policies across Lancashire.

1.2 Relevance to the Council's ambitions and priorities

- Community Objectives – The consideration of an intended use policy will promote the Council's aim of being a well-managed Council.
- Corporate Priorities - N/A
- Other Considerations – N/A

2 BACKGROUND

2.1 Following recent decisions in the high court the current legal position is as follows:

2.1.1 A hackney carriage, which is licensed in one area, can be used to carry out pre booked private hire work on behalf of an operator licensed by a different local authority (i.e they are able to work anywhere in the country).

2.1.2 In the proper exercise of its statutory discretion under section 37 of the Town Police Clauses Act 1847 a licensing authority is obliged to have regard (a) to whether the applicant intends that the hackney carriage if licensed will be used to ply for hire within the area of that authority, and (b) whether the applicant intends the hackney carriage will be used (either entirely or predominantly) for private hire remotely from the area of that authority.

- 2.1.3 A licensing authority may in the proper exercise of its discretion under the said section 37 refuse to grant a licence in respect of a hackney carriage that is not intended to be used to ply for hire within its area and/or is intended to be used (either entirely or predominantly) for private hire remotely from the area of that authority.
- 2.1.4 In determining whether to grant a licence under the said section 37 a licensing authority may require an applicant to submit information pursuant to section 57 of the Local Government (Miscellaneous Provisions) Act 1976 in order to ascertain the intended usage of the vehicle.
- 2.2 There has over recent years been an increasing problem within certain areas of Lancashire of Hackney Carriages being licensed as Hackney Carriages by Rossendale Borough Council but exclusively carrying out private hire work within another area. At a recent meeting of the Lancashire Licensing Officers Group this issue was discussed and the Licensing Officer from Preston City Council confirmed that it had recently introduced an intended use policy. It was suggested that if all Council's within Lancashire were to do the same collectively this could eradicate the problem. A copy of the Intended Use Policy adopted by Preston City Council is enclosed as **Appendix 1** to this report.
- 2.3 Currently, Ribble Valley Borough Council does not have an intended use policy, however the Private Hire Operators, Hackney Carriage Drivers and Hackney Carriage Vehicle conditions all contain a condition that Hackney Carriage licence holders must only carry out private hire work through a Ribble Valley Borough Council licensed operator and that such operators must only employ Hackney Carriage drivers licensed by Ribble Valley Borough Council.

3 ISSUES

- 3.1 An intended use policy would introduce an additional element to the application process so that the Council will assesses the intended use of a vehicle at the point of application for a new licence, renewal of a licence, transfer of ownership, and/or a change of vehicle. It could also include a presumption that a licence holder will be referred to committee if they are found to be using the vehicle contrary to its previously stated use. Each instance would of course be assessed on its own merits.
- 3.2 If Committee resolves that the Council should adopt such a policy a consultation and consideration of the results of that consideration will need to be carried out with Hackney Carriage licence holders.

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications

- Resources – Resources will be needed within the Legal and Democratic Services Department to formulate an intended use policy and to consult with the relevant organisations.
- Technical, Environmental and Legal – None
- Political - None
- Reputation – The consideration of the introduction of an intended use policy will enhance the Council’s reputation as a well-managed Council.
- Equality & Diversity – None

5 RECOMMENDED THAT COMMITTEE

5.1 Decide whether the Council should introduce an intended use policy or whether it is satisfied that the current arrangements provide sufficient control.

MARSHAL SCOTT
CHIEF EXECUTIVE

MAIR HILL
SOLICITOR

BACKGROUND PAPERS

REF: MJH/Licensing Committee/18 June 2013

For further information please ask for Mair Hill, extension 3216