



<u>Committee and Date</u>
Strategic Licensing Committee
17 January 2012

<u>Item</u>
8
Public

## LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

### USE OF DELEGATED POWERS IN RESPECT OF OUT OF AREA HACKNEY CARRIAGE ENFORCEMENT – INVESTIGATION AND ACTION

**Responsible Officer** Carol Foster, Licensing Team Leader  
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#### 1. Summary

- 1.1 At a meeting on 25 November 2011, the Licensing and Safety Sub Committee agreed that the licensing team leader should use delegated powers to deal with matters of investigation and revocation in respect of hackney carriages and in particular the non-use of the vehicles in the council's area. This report seeks to confirm such action and the procedure involved

#### 2. Recommendations

- 2.1 That the Group Manager Public Protection and Enforcement and/or the Licensing Team Leader use delegated powers to investigate and take such action as the Officer considers appropriate (including revocation) concerning matters relating to the use of Hackney Carriages Licensed by the Council, in particular whether such vehicles are being used to ply for hire in the Council's area.
- 2.2 That where the officer uses the delegated power referred to in 2.1 above then the procedure set out in 6 below be followed.

#### 3. Risk Assessment and Opportunities Appraisal

- 3.1 There are no risks apparent to Officers other than the usual risks associated with possible appeals.

#### 4. Financial Implications

- 4.1 There are no financial implications associated with this report.

### Report

#### 5. Background

- 5.1 Members will be aware that a number of licences for hackney carriages have been issued recently to persons living outside of the Shropshire area. Licences were granted as the applicants informed committee that they would,

to a material extent, be plying for hire in the zone in which that they had applied for and would be prepared to keep records of all bookings, mileage and fares charged. Licences were granted subject to keeping records of all work undertaken and subject to the vehicles being used in the council's area/zone.

- 5.2 It is important that Hackney Carriages are used to ply for hire to a material extent within the relevant zone. If the vehicles are used out of area then there would be public protection consequences relating to difficulties in enforcing conditions of licence and inspection of vehicles.
- 5.3 Investigations indicate that a number of proprietors are not working in the area and/or keeping records. Some are saying that they are not yet working, although they had held a licence for over a month and vehicle mileage at the time of inspection showed that the vehicle had been extensively used.
- 5.4 The Council's constitution gives delegated power to officers to revoke licences, normal practice however is to present the case to the Licensing and Safety Committee for consideration, prior to a revocation. The reason for this is because revocation is usually connected to the behaviour of a driver.
- 5.5 In light of the numbers involved and the obvious and serious breaches of the licence conditions, it is considered that appropriate action should be taken by an officer as soon as possible after relevant information is received.
- 5.6 At its meeting on 25 November 2011, the Licensing and Safety Committee agreed that the licensing team leader use delegated powers to deal with matters of investigation and revocation in relation to cases that had come to light. In the event, of there being doubt that the licence should be revoked, the matter would be brought before the Licensing and Safety committee for consideration.

## **6. Matters of Procedure**

- 6.1 The officer deciding on the matter will be making a "quasi-judicial" decision. If, for instance, the decision was to revoke a licence, the proprietor of the vehicle would have a right of appeal to the Magistrates Court.
- 6.2 The officer must of course act fairly. Before any decision is reached the licence holder must be informed of the case against him or her and be given an opportunity of making representations.
- 6.3 It is open to a local authority to allow only written representations and this is how the officer dealing with the matter will deal with each case. The officer will write to the relevant licence holder stating the case. The letter will set out all the relevant information and give to the licence holder a reasonable time (usually two weeks) to reply in writing with his or her representations.
- 6.4 Following receipt of the licence holder's representations, or upon the expiration of the time limit for replies, the officer (unless she seeks further information as a result of the representation) shall make a decision taking all

relevant matters into account. The officer shall then write to the licence holder with the decision of the council, setting out the reasons why the decision has been reached. Where appropriate the right of appeal will also be set out in the decision letter.

- 6.5 Where the officer considers it necessary or appropriate a case will be referred to the Licensing and Safety Sub Committee for consideration and decision.

**List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)**

Hackney Carriage Policy

Local Government (Miscellaneous Provisions) Act 1976

Draft Out of Area Policy (Strategic Licensing Committee 01 December 2011)

**Human Rights Act Appraisal**

Under article 6 of the European Convention on Human Rights everyone is entitled to a hearing within a reasonable time by an independent and impartial tribunal; because there is a right of appeal to a Magistrates Court Article 6 is not breached. Under article 1 everyone is entitled to the peaceful enjoyment of his possessions; however, the relevant UK legislation is compliant with the convention rights and article 1 does not affect the subject matter of this report.

**Environmental Appraisal**

Not applicable.

**Risk Management Appraisal**

Not applicable.

**Community / Consultations Appraisal**

Not applicable.

**Cabinet Member**

Cllr Steve Charmley

**Local Member**

**Appendices**

None