



<u>Committee and Date</u>
Strategic Licensing Committee
20 June 2018

<u>Item</u>
13
Public

PROPOSED CONSULTATION ON THE REMOVAL OF THE EXISTING FIVE HACKNEY CARRIAGE ZONES

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1. Summary

- 1.1 This report sets out a proposal to consult on the removal of the five existing Hackney Carriage Zones ('the Zones') and apply a single Hackney Carriage licensing regime throughout the administrative area of Shropshire Council with effect from 1 April 2019.

2. Recommendation

- 2.1 That the Committee agrees to consult on the removal of the five existing Hackney Carriage Zones and apply a single Hackney Carriage licensing regime throughout the administrative area of Shropshire Council with effect from 1 April 2019.

REPORT

3. Risk Assessment and Human Rights Act Appraisal

- 3.1 The control of Hackney Carriage Licensing is currently based on the regimes that existed within the previous District and Borough councils (South Shropshire District Council, North Shropshire District Council, Shrewsbury and Atcham Borough Council, Oswestry Borough Council and Bridgnorth District Council) prior to the formation of Shropshire Council ('the Council') in 2009.
- 3.2 Hackney Carriage licensing is a function of the Council and the power to remove the existing five Zones (see paragraph 5.3 below for details of the existing Zones) is set out in provisions within the Local Government Act 1972 ('the LGA72').
- 3.3 The removal of the Zones, in effect, will create a single area that would permit Shropshire Council licensed Hackney Carriages to operate across the whole of the administrative area of Shropshire Council rather than being restricted to the Zone for which they are currently licensed. The most significant impact for existing Hackney Carriage proprietors, who currently operate outside of 'Zone

- 4', is that all vehicles will be required to be wheelchair accessible. The practical impact of this is reflected in the proposed Hackney Carriage and Private Hire Licensing Policy 2019 to 2023 ('the Policy'), which is the subject of a separate report to Committee and will also be separately consulted upon.
- 3.4 The Public Sector Equality Duty (PSED), under the Equality Act 2010 (EA2010), requires the Council to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Furthermore, in April 2017, Sections 165 and 167 of the EA2010 were enacted giving the Council the power to publish a Designated List of Wheelchair Accessible Vehicles.¹ The Department of Transport (DfT) actively encourages local authorities to undertake the necessary steps to publish such a list in order to improve access to transport for wheelchair users.
- 3.5 The removal of the Zones is inextricably linked to both the PSED and the more recent change that was made to the EA2010 in April 2017. Given the responsibilities that are placed on the Council in this regard, there is a need for the Committee to seriously consider enabling Shropshire Council licenced Hackney Carriages to operate across the whole of the Shropshire Council administrative area in order to achieve the most effective outcomes for wheelchair users and, where relevant, their carers.
- 3.6 The Council also has safeguarding responsibilities, particularly in relation to tackling exploitation, including child sexual exploitation, abuse, modern slavery and human trafficking of children and vulnerable adults.
- 3.7 Directly linked to the Council's safeguarding responsibilities, the Deregulation Act 2015, whilst aiming to enable Private Hire Operators to more readily fulfil demand, has inadvertently enabled an increase in Private Hire drivers and vehicles licensed by other local authorities operating across the administrative area of Shropshire Council, i.e. cross-border hiring. This has increased the risk to public safety and has led to not only business being taken away from Shropshire Council Private Hire Operators but has also adversely impacted on the available business for Hackney Carriage proprietors. This is further compounded by the inability of Hackney Carriage proprietors to operate outside their current designated Zone.
- 3.8 Private Hire Operators are subject to robust checks in order to operate legitimate Private Hire businesses. There are a number of businesses that have traditionally operated under the Hackney Carriage regime when in reality they are operating in the same manner as licenced Private Hire Operators but without having to comply with the Council's Operator conditions. Although the law allows Hackney Carriages to conduct their business in this way, it has the potential undermine the steps that the Council implemented in 2015 to tackle child sexual exploitation and it will limit the Council's future ability to fully demonstrate that it robustly tackles exploitation, abuse, modern slavery and human trafficking of children and vulnerable adults. Hackney Carriage

¹ The publishing of the list is dealt with through a separate report to the Committee.

Proprietors are strongly encouraged to consider how they operate their business to ensure they meet all their safeguarding responsibilities.

- 3.9 In practice, the removal of the Zones will require existing Hackney Carriage proprietors to make a commercial decision based on whether they want to operate Wheelchair Accessible Hackney Carriage Vehicles, in which case the Council will support them to do so by publishing their contact details on the Designated List of Wheelchair Accessible Vehicles, or alternatively to focus on being a Private Hire business and be subject to the Private Hire regime for their vehicles and to the relevant Private Hire Operator conditions.
- 3.10 The proposed removal of the Zones aims to further promote equal transport rights for wheelchair users and, where relevant, their carers who may wish to use Hackney Carriages as a form of transport without unduly undermining the commercial operation of existing Hackney Carriage provision outside of 'Zone 4' and taking account of the PSED placed on the Council.
- 3.11 In order to enable all stakeholders to understand clearly the full impact that the removal of the Zones will have on the operation of the Hackney Carriage regime, the proposed revised Hackney Carriage and Private Hire Licensing Policy 2019 to 2023, which, as referred to in paragraph 3.3 above, is reported separately to the Committee, has been drafted to reflect the removal of the existing Zones. This absolutely does not prevent a decision being made to retain the existing five Zones. If the Committee does not support the removal of the Zones, the proposed draft Policy will be amended accordingly to ensure that the current five Zones remain in place with no changes necessary to the way in which Hackney Carriages currently operate. The Committee will then be in a position to recommend to Cabinet that it adopts the revised Policy with effect from 1 April 2019 with no changes to the Zones.
- 3.12 Equally, following the outcome of the consultation process relating to the removal of the Zones, if the Committee does support the removal of the five Zones, a separate report to address the required procedural steps that must be taken will be prepared and presented directly to the Council. This will enable the proposed Policy to be finalised, including the effect of the removal of the Zones, before the Committee considers the final version of the revised Policy. The Committee will then be in a position to recommend to Cabinet that the revised Policy, incorporating the impact of the changes to the Zones, is formally adopted with effect from 1 April 2019.

Proposed transitional arrangements to apply if the zones are removed

- 3.13 With respect to hackney carriages licensed prior to the 1 April 2019, it is proposed that the following transitional arrangements apply between the 1 April 2019 and 31 March 2021.
- For vehicle licences due for renewal between 1 April 2019 and 31 March 2021, the proprietor of a non-wheelchair accessible vehicle will be permitted to renew their existing licensed vehicle.

- For vehicle licences due for renewal between 1 April 2021 and 31 March 2022, the proprietor must ensure their vehicle is wheelchair accessible at the date the licence is due for renewal from 1 April 2021 onwards.

3.14 There are no specific consultation requirements laid down in the LGA72; nevertheless, removal of the existing five Zones is a fundamental change, particularly given, if implemented, this will require all Shropshire Council licensed Hackney Carriages to become wheelchair accessible. It is clearly good practice to consult and is in line with the Department for Transport's 'Taxi and Private Hire Vehicle Licensing: Best Practice Guidance' (March 2010). Consequently, it is accepted that there is a need for the Council to consult on the removal of the existing five Zones. The details of the consultation period are set out at paragraph 6.1 below.

3.15 An Equality and Social Inclusion Impact Assessment (ESIIA) is being prepared and will be made available to the Committee following the conclusion of the consultation process.

4. Financial Implications

4.1 The financial implications associated with the recommendation are limited to the employee costs associated with undertaking the consultation exercise and any costs of publishing the resolution to remove the Zones, in the event that the decision is made to do so. These costs are recovered through the licensing fees.

5. Background

5.1 The Council has a duty to provide for the licensing of Hackney Carriages under the Town Police Clauses Act 1847 and under the relevant adopted provisions of the Local Government (Miscellaneous Provisions) Act 1976. In addition, the adopted provisions of the 1976 Act mean that the Council must provide for the licensing of private hire drivers, vehicles and operators.

5.2 Whilst it is recognised that this duty requires an efficient and effective administrative process, the fundamental purpose of the licensing regime is to protect the safety of the public. This means the Council must ensure that only fit and proper persons are licensed to be drivers, operators and proprietors of licensed vehicles and that vehicles remain safe and fit for the purpose of transporting fare-paying passengers.

5.3 Within the administrative area of Shropshire Council, there are currently five separate Hackney Carriage Zones that are defined by reference to the five district and borough council areas that existed prior to the creation of the unitary authority, namely:-

Zone 1 – Bridgnorth District Council

Zone 2 – North Shropshire District Council

Zone 3 – Oswestry Borough Council

Zone 4 – Shrewsbury & Atcham Borough Council
Zone 5 – South Shropshire District Council

6. Additional information

6.1 The consultation process will have regard to the current government consultation principles including providing for a ten week period from 25 June 2018 to 2 September 2018 to receive responses. The outcome of the

consultation will be brought back to the Committee for further consideration.

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

- Department for Transport's 'Taxi and Private Hire Vehicle Licensing: Best Practice Guidance' (March 2010)
- Deregulation Act 2015
- Equality Act 2010
- Town Police Clauses Act 1847
- Local Government Act 1972
- Local Government (Miscellaneous Provisions) Act 1976

Cabinet Member: Councillor Joyce Barrow, Portfolio Holder for Communities, Waste & Regulatory Services

Local Member: Report is applicable to the whole administrative area of the Council

Appendices: None