



<u>Committee and Date</u>
Strategic Licensing Committee
3 October 2018

<u>Item</u>
7
Public

PROPOSED ADDITIONAL 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 for 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.
- 1.2 At the Strategic Licensing Committee meeting held on 20 June 2018 the Committee agreed to commence a ten week consultation period from 25 June 2018 to 2 September 2018 to receive responses.
- 1.3 Officers have considered the responses that were received and as a result now consider that the original transitional arrangements that were proposed have changed fundamentally and therefore request that the Committee allow a further period of consultation on the revised proposal.

2. Recommendation

- 2.1 That the Committee considers all the suggested amendments put forward by those who responded to the consultation and agrees with the officer's summary as set out in **Appendix A**.
- 2.2 That the Committee agrees to a further formal consultation for not less than 4 weeks to commence from the 8 October 2018, 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 2021, with no transitional arrangements.

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.
- 3.4 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.

Consultation Responses

- 3.5 There were 16 responses received following the consultation; 1 of which was not relevant. Of the 15 relevant responses, a significant majority (80%) were in full support of the removal of the existing five taxi zones citing advantages that would benefit both passengers and the trade.
- 3.6 The supporting responses were received from taxi proprietors (or their representatives) who are currently licensed to operate in zones 3, 4 and 5, together with responses from a private hire operator/driver based in zone 1, a member of the public who resides in zone 4 and a town council in zone 5. No responses were received from anyone linked to zone 2 and no taxi proprietors that currently operate in zones 1 or 2 responded.
- 3.7 The 20% of responses that were against the proposal to remove the existing zones were based on localised economic impacts linked to the wider licensing changes that have occurred over the previous three years rather than as a direct result of removing the zones in the future.
- 3.8 The initial proposal to remove the existing five zones was based on an implementation date of 1 April 2019 with a two year transition period to allow the trade to undertake appropriate financial business planning and for all taxis to be wheelchair accessible by 31 March 2021.
- 3.9 However, feedback from the consultation suggested that this would give the taxi proprietors in zones 1, 2, 3 and 5 (who don't already have wheelchair

accessible taxis) an unfair economic advantage over proprietors in zone 4 who currently do have wheelchair accessible taxis. As a result, it is now proposed that any decision to remove the existing zones should still be made in 2018/19, but with an effective implementation date delayed until 1 April 2021.

- 3.10 This means that the trade will still have a two year transition period, but the taxi proprietors in zone 4 will not face immediate competition from existing proprietors in zones 1, 2, 3 and 5 as all proprietors will continue to operate in their current zones until 31 March 2021.
- 3.11 The taxi proprietors who currently operate in zones 1, 2, 3 and 5 will, however, be fully aware that they have two years to upgrade their taxis to accommodate wheelchairs or to take a business decision not to do so and instead licence their vehicles under the private hire regime. If proprietors upgrade their vehicles, this will clearly increase the number of wheelchair accessible vehicles operating in Shropshire. However, if they opt for the latter position, the number of wheelchair accessible vehicles will not increase; however, equally this approach will not reduce the number of accessible vehicles, and, significantly, under the private hire regime, the Council will be in a position to enhance its safeguarding checks on more vehicle proprietors and drivers, providing they remain with Shropshire Council and do not apply to be licensed by another Council with less robust policies in place.
- 3.12 This proposed amendment to the implementation date will also provide a longer lead in time for the licensing team to engage with taxi proprietors for the purposes of reviewing the existing five taxi tariff cards with the aim of replacing this with a single card. This will enhance transparency and consistency across taxi fares in Shropshire, which will, in turn, increase consumer protection as it relates to the pricing of taxi journeys.
- 3.13 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.
- 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) has been undertaken for all the groups, the impact is rated as positive; notably, with respect to the 'disability' group, the impact is rated as 'high positive' and 'age'

as ‘medium positive’. The impact is also rated as ‘medium positive’ for people for whom there are safeguarding concerns, given the greater ability of the Council to fully demonstrate that it robustly tackles exploitation, abuse, modern slavery and human trafficking of children and vulnerable adults, and the likely improvements overall to public safety under the proposed changes, bringing particular benefits for vulnerable households.

- 3.16 With respect to the remaining groups, the impact, in reality, is likely to be neutral – neither positive nor negative – with no anticipated need to take actions to mitigate or enhance the impact. The assessment took into account children and young people who are looked after by Shropshire Council and the families of children in need when considering the ‘age’ group and vulnerable adults, e.g. adults with learning disabilities, when considering the ‘disability’ group. The full ESIA document can be found at **Appendix B**.

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

- 5.4 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. 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.
- 5.5 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.
- 5.6 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.
- 5.7 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.
- 5.8 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.
- 5.9 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

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

6. Additional information

6.1 The additional consultation process will have regard to the current government consultation principles including providing for a four week period from 8 October 2018 to 4 November 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
- Strategic Licensing Committee Report – 'Proposed Consultation on the Removal of the Five Hackney Carriage Zones' dated 20 June 2018
<https://shropshire.gov.uk/committee-services/ielistdocuments.aspx?CId=166&MId=3729&Ver=4>

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:

Appendix A – Summary of Consultation Responses

Appendix B - Equality and Social Inclusion Impact Assessment (ESIIA)