



Committee and Date

Council

13 December 2018

PROPOSED REMOVAL OF THE EXISTING FIVE HACKNEY CARRIAGE ZONES

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1. Summary

- 1.1 This report proposes, based on a recommendation from the Strategic Licensing Committee, that the Council removes the five Hackney Carriage Zones ('the zones'), which are defined by reference to the five district and borough council areas that existed prior to the creation of Shropshire Council, and that all provisions of the hackney carriage licensing regime are applied across the whole of the administrative area of Shropshire Council with effect from 1 April 2021.

2. Recommendations

- 2.1 That the Council resolves to remove the five existing Hackney Carriage Zones, which are defined by reference to the five district and borough council areas that existed prior to the creation of Shropshire Council, and that all provisions of the hackney carriage licensing regime be applied across the whole of the administrative area of Shropshire Council with effect from 1 April 2021.
- 2.2 That the Council instructs the Trading Standards and Licensing Operations Manager to publicise, in accordance with the relevant provisions of Schedule 14 of the Local Government Act 1972, that it is the intention of the Council to remove the five existing Hackney Carriage Zones and that all provisions of the hackney carriage licensing regime be applied across the whole of the administrative area of Shropshire Council with effect from 1 April 2021.

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'). There is no power to re-create the five zones, or any other combination of zones, once the existing zones are removed.
- 3.3 The removal of the zones will create a single area that will 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.
- 3.5 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 for 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 and this work is currently being undertaken.
- 3.6 The proposed 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 equality responsibilities that are placed on the Council, there is a clear basis on which to seriously consider enabling 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.
- 3.7 The DfT recently published its 'Inclusive Transport Strategy', which demonstrates that there is an increasing expectation for transport strategies to provide inclusive transport solutions for disabled passengers. The proposed removal of Shropshire's existing 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.
- 3.8 The DfT, in its 'Taxi and Private Hire Vehicle Licensing: Best Practice Guidance' recommends the removal of zones on the basis that they can diminish the supply

of taxis and the scope for customers. It can be confusing and frustrating for those who wish to hire a taxi to find that a vehicle licensed by the relevant local authority is nonetheless unable to pick them up (unless pre-booked) because they are in the wrong part of Shropshire. The removal of zones can also reduce costs for the local authority through simpler administration and enforcement. It can also promote fuel efficiency and reduce environmental impacts, because taxis can pick up a passenger anywhere in the county, rather than having to return empty to their licensed zone after dropping a passenger in another zone.

- 3.9 Directly linked to the Council's safeguarding responsibilities, particularly in relation to tackling exploitation, including child sexual exploitation, abuse, modern slavery and human trafficking of children and vulnerable adults, 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 not only led to 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.
- 3.10 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 carriage proprietors to conduct their business in this way, it has the potential to 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 wider 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.
- 3.11 For the purposes of considering the removal of the existing zones, two periods of consultation were undertaken; initially a ten-week period from 5 June 2018 to 2 September 2018 and a further four-week period from 8 October 2018 to 4 November 2018. Full details of the consultation process, together with the actual responses and analysis of those responses with officer comments and explanatory notes, are available in the three Strategic Licensing Committee Reports entitled 'Proposed Consultation on the Removal of the Five Hackney Carriage Zones' dated 20 June 2018, 3 October 2018 and 20 November 2018. The reports are available at the following links:
- <https://shropshire.gov.uk/committee-services/ieListDocuments.aspx?CId=166&MId=3729&Ver=4> (June)
 - <https://shropshire.gov.uk/committee-services/ieListDocuments.aspx?CId=166&MId=3730&Ver=4> (October)

- <https://shropshire.gov.uk/committee-services/ieListDocuments.aspx?CId=166&MId=3858&Ver=4> (November)

- 3.12 Considering the feedback from both periods of consultation, the response was limited; only 22 (one of which was not relevant) received, set against over 100 hackney carriages and over 700 private hire vehicles currently licensed by the Council. This should not necessarily be perceived as a negative outcome; rather, it may demonstrate that the trade's understanding of the key role they have to play in the future of inclusive transport options, particularly for those who are wheelchair users, has improved significantly in recent years and this has been influenced by the continuing constructive dialogue between the Council's licensing team and the hackney carriage and private hire trade. Nevertheless, the low response rate must be borne in mind.
- 3.13 In addition, despite the limited response, the majority (67%) of responders fully supported the removal of the zones. Those who were against the proposals were unable to provide robust or substantive evidence for their position and the comments made were largely 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.
- 3.14 The fundamental change that arose as a result of the consultation was to delay the actual removal of the zones from 1 April 2019 to 1 April 2021. This is primarily to maintain a more balanced economic position for all hackney carriage proprietors and to avoid an unfair and potentially adverse impact on the existing 'Zone 4' proprietors whilst, in practice, still retaining a two-year transition period, which was part of the original proposals.
- 3.15 If existing hackney carriage proprietors upgrade their vehicles, this will clearly increase the number of wheelchair accessible vehicles operating in Shropshire. If they opt to licence their vehicles as private hire vehicles, the number of wheelchair accessible vehicles will not increase; however, equally this approach will not reduce the number of wheelchair 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.
- 3.16 The equality and human rights impact of the proposed removal of the zones has been considered and an Equality and Social Inclusion Impact Assessment (ESIIA) has been undertaken for all groups; this can be found at **Appendix A**.
- 3.17 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.

- 3.18 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 adults with care and support needs, e.g. adults with learning disabilities, when considering the ‘disability’ group.
- 3.19 The proposed implementation date will provide an increased lead in time to further engage with hackney carriage proprietors for the purposes of reviewing the existing five hackney carriage tariff cards with the aim of replacing this with a single card. This will enhance transparency and consistency across hackney carriage fares in Shropshire, which will, in turn, increase consumer protection as it relates to the pricing of hackney carriage journeys.

4. Financial Implications

- 4.1 The financial implications associated with the recommendation are limited to the employee costs associated with undertaking the consultation exercises and the cost of publicising the Council’s intention to remove the zones in the Shropshire Star. 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 (‘1976 Act’). 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, which 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 existence of zones stems from 19th century hackney carriage legislation and local government reorganisation in 1974 under the terms of the Local Government Act 1972, and has been further impacted by changes to transport legislation and subsequent local government reorganisations.
- 5.5 The DfT, in its 'Inclusive Transport Strategy' report that in England 58% of all hackney carriages were wheelchair accessible in 2018. This has remained at similar levels since 2015. In comparison, 2% of private hire vehicles were wheelchair accessible in 2018, similar to the proportion in 2017.
- 5.6 The number of Shropshire Council licensed vehicles that are currently wheelchair accessible is 77; 57 are hackney carriages and 20 are private hire vehicles. There are a further 69 licensed hackney carriages and 688 licensed private hire vehicles that are currently not wheelchair accessible.
- 5.7 This means that 45.2% of Shropshire Council licensed hackney carriages and 2.8% of private hire vehicles are wheelchair accessible. The percentage of wheelchair accessible vehicles in Shropshire is below the percentage for England as a whole and is clearly very low for private hire vehicles, albeit it is slightly higher (by less than 1%) in Shropshire compared with the figure for England.
- 5.8 There is no single source of data that gives a true or reliable picture of the number of wheelchair users in Shropshire; however, a report by Fleur C. Perry, using data from the 2011 census, estimates there are 6,129. Data available from the Council's 'Care First' records indicates there are 3,166 people registered with a physical disability; however, this data does not indicate whether the physical disability is such that the individual needs to use a wheelchair.

6. Conclusions

- 6.1 Overall, there is a strong case to support the removal of the existing five hackney carriage zones and the implementation of a single hackney carriage licensing regime across the whole of the administrative area of Shropshire Council.
- 6.2 It is abundantly clear that central Government, through the DfT, is driving improvements in the inclusivity of transport; there continues to be a need to improve and promote equality outcomes for those with disabilities, which is enshrined in the PSED that is placed on the Council; and the fact that the majority of those who responded (albeit a limited number) to the Council's consultation were in support of the proposal, are all factors that outweigh the small number of hackney carriage proprietors who expressed their opposition to the change.
- 6.3 Confirmation that implementation of the proposal will not take effect until 1 April 2021 will provide an adequate transition period for all hackney carriage proprietors and other stakeholders to adjust to the proposed arrangements and satisfy the new requirements.

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

- Department for Transport 'Taxi and Private Hire Vehicle Licensing: Best Practice Guidance' (March 2010)
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf
- Deregulation Act 2015
- Equality Act 2010
- Town Police Clauses Act 1847
- Local Government Act 1972
- Local Government (Miscellaneous Provisions) Act 1976
- Stand up and be counted: An attempt to estimate the number of wheelchair users within the areas used by the 2011 census by Fleur C. Perry
[https://www.muscular dystrophy uk.org/assets/0001/0981/Stand Up And Be Counted.pdf](https://www.muscular dystrophy uk.org/assets/0001/0981/Stand_Up_And_Be_Counted.pdf)
- Taxi and Private Hire Vehicle Licensing – Steps towards a safer more robust system
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/745516/taxi-and-phv-working-group-report.pdf
- Department for Transport 'The Inclusive Transport Strategy: achieving equal access for disabled people'
<https://www.gov.uk/government/publications/inclusive-transport-strategy/the-inclusive-transport-strategy-achieving-equal-access-for-disabled-people>
- Taxi and Private Hire Vehicle Statistics, England: 2018
<https://www.gov.uk/government/statistical-data-sets/taxi01-taxis-private-hire-vehilces-and-their-drivers>

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 - Equality and Social Inclusion Impact Assessment (ESIIA)