



Committee and Date

Council

17 July 2014

10.00 am

Item

25

Public

ADOPTION OF PART II OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

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1. Summary

- 1.1** This report sets out a proposal to confirm the adoption of the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 ('the 1976 Act') for the whole of the Shropshire Council administrative area in readiness for the Council becoming a commissioning council. Part II of the 1976 Act contains provisions relating to the licensing of private hire and hackney carriage vehicles, drivers and operators.

2. Recommendation

- 2.1** That the Council resolves that the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 ('the 1976 Act') relating to hackney carriage and private hire vehicles shall apply to the Council's administrative area and that in accordance with Section 45 of the 1976 Act public notice be given of the Council's intention, at its meeting on the 25 September 2014, to pass a resolution that Part II of the 1976 Act continue to be implemented within the area of Shropshire Council with effect from 27 October 2014 and that the Head of Public Protection is authorised and instructed to publish the public notices in the Shropshire Star newspaper and serve a copy of the notice on all parish and community councils within the Shropshire Council administrative area in accordance with the provisions of Section 45 of the 1976 Act.

REPORT

3. Risk Assessment and Opportunities Appraisal

- 3.1** The licensing function is being considered as part of a proposal to deliver regulatory services through a new delivery model under the Councils wider commissioning approach to the delivery of services. The current proposal for the delivery of regulatory services, if accepted by the Council, indicates that the new delivery model will be implemented from 1 April 2015.
- 3.2** It is considered judicious for clarification purposes and to ensure certainty in any enforcement action taken by the Council under the 1976 Act to confirm the adoption of the provisions of Part II of the Act as soon as is practicable. This is without prejudice to the adoption of the legislation by the Council's predecessor authorities. Members of the Strategic Licensing Committee have indicated their support for this approach.
- 3.3** An Equalities Impact Needs Assessment has not been undertaken as the report does not concern the implementation of a new policy; it is concerned with a legal matter that is clearly set out in domestic legislation.
- 3.4** There is no anticipated environmental impact associated with the recommendation in this report. The recommendation is not at variance with the Human Rights Act 1998 and is unlikely to result in any adverse Human Rights Act implications. The recommendation is in line with current legal procedures laid down in the 1976 Act.
- 3.5** The recommendation relates to the adoption of specific legislation in which there is set out a legally prescribed process for notifying affected parties. If the recommendation is approved, the prescribed process will be undertaken as set out in Section 45 of the 1976 Act.

4. Financial Implications

4.1 The cost implications relate specifically to the publication of the statutory notices in the local newspaper; this will be approximately £500, together with the costs associated with serving a copy of the notice on all parish and community councils affected. As the notice to the parish and community councils will, in the main, be served by email, the costs in this respect will be limited to costs associated with officer time. These costs will be met from the Public Protection licensing budget and are potentially recoverable through the licensing fee regime.

5. Background

5.1 Many of the legislative provisions relating to hackney carriage and private hire vehicle licensing are contained within Part II of the 1976 Act. This part of the Act is adoptive; consequently, if a local authority wishes Part II of the Act to apply in its area it must pass the appropriate resolution and follow the prescribed procedure set out in Section 45 of the Act.

5.2 In summary, for the authority to confirm the adoption of the legislation, the following must be undertaken:-

- the authority must pass a resolution specifically adopting the legislation in its area (there are definitions associated with the relevant area)
- the resolution must specify a date upon which the legislation will come into force and this date must be at least a month after the resolution is passed
- before passing the resolution, the authority must publish in a local newspaper, for two consecutive weeks, its intention to pass such a resolution
- before passing the resolution, the authority must serve a copy of the notice on each parish or community council that would be affected by the resolution before or, at the latest, on the same day that the notice is published in the local newspaper

5.3 The provisions of the 1976 Act can only be adopted in those areas where hackney carriage licensing applies under the Town Police Clauses Act 1847. Such licensing

was extended to all councils in England and Wales from the 1 January 1987 by virtue of the Transport Act 1985 (separate legislation applies to London).

- 5.4 Between 1978 and 1991, procedures were undertaken by Shropshire Council's five predecessor district/borough councils to adopt Part II of the 1976 Act. The adoption has continued in effect for the area of Shropshire Council by virtue of the unitary process that created the new council on 1 April 2009.

6. Additional Information

- 6.1 The operative provisions of the 1976 Act are a Council function, delegated to the Strategic Licensing Committee; however, the actual adoption of the Act under Section 45 is a Council function as set out in Article 4.2 (b) of Part 2 of the Council's Constitution.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) Local Government (Miscellaneous Provisions) Act 1976 – Part II, as amended
Cabinet Member (Portfolio Holder) Councillor Steve Charmley
Local Member Not applicable; the report has county wide application.
Appendices None