

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

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1. Summary

- 1.1 This report sets out the final stage of the legal process 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 (other than section 45) of the Local Government (Miscellaneous Provisions) Act 1976 relating to hackney carriage and private hire vehicles shall apply to the Council's administrative area with effect from 27 October 2014, this being a date not before the expiration of the period of one month beginning with the day the resolution is passed.

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 Council's 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.
- 3.3** Following the Strategic Licensing Committee's support for this approach, the Council resolved, at its meeting on the 17 July 2014, to adopt the provisions of Part II of the 1976 Act with effect from 27 October 2014. The Council also authorised and instructed the Head of Public Protection to undertake the prescribed steps, as set out in section 45 of the 1976 Act, to publish the Council's intention to adopt the legislation. These steps were correctly completed between 8 August 2014 and 12 September 2014.
- 3.4** 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.
- 3.5** 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.

4. Financial Implications

- 4.1** There are no financial implications beyond the costs that were required to publish the statutory notices in the local newspaper; this amounted to £252.00, together with the costs associated with serving a copy of the notice on all parish and community councils affected by the resolution. The notice was served, on the majority of councils by email, with the assistance of the Shropshire Association of Local Councils (SALC), and eight by first class letter post. Consequently, the costs in this respect were limited to those associated with officer time and a minimal amount of postage costs. The costs have been met from the Public Protection licensing and SALC budgets 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** 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).

5.3 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.

5.4 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

5.5 In accordance with the procedure set out at paragraph 5.4 above and the resolution passed at the Council meeting held on the 17 July 2014, the Head of Public Protection published in the Shropshire Star on the 5 September 2014 and the 12 September 2014, being two consecutive weeks, its intention to pass a resolution to adopt Part II of the 1976 Act with effect from 27 October 2014. Prior to this, between the 8 August 2014 and the 2 September 2014, a copy of the said notice was served on each parish and town council (there being no community councils) and on each chairperson of parish meetings based within the Shropshire Council area. This totalled 165 parish/town councils and parish meetings.

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.
- Report to the Council on the 17 July 2014 entitled ‘Adoption of Part II of the Local Government (Miscellaneous Provisions) Act 1976’.
- Copy of the statutory notice served on the parish and town councils and the chairperson of parish meetings, together with the relevant covering emails/letters, confirmation of receipt form and briefing note.
- Extracts from the Shropshire Star newspapers dated 5 September 2014 and 12 September 2014 confirming publication of the statutory notice on two consecutive weeks.
- List of parish and town councils and chairpersons of parish meetings on whom the statutory notice was served.
- Returned confirmation of receipt forms.

Cabinet Member (Portfolio Holder)

Councillor Steve Charmley

Local Member

Not applicable; the report has county wide application.

Appendices

None.