

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO LICENSING COMMITTEE

25 OCTOBER 2016

REPORT OF THE CORPORATE DIRECTOR OPERATIONAL AND PARTNERSHIP SERVICES

INTRODUCTION OF 'INTENDED USE/ REMOTE TRADING POLICY' FOR HACKNEY CARRIAGES

1. Purpose of Report.

1.1 The purpose of the report is to:

- Consider the risk to public safety presented by the remote trading of Hackney Carriages in other Authority areas;
- To seek approval to consult on a draft policy to mitigate such risk.

2. Connection to Corporate Improvement Objectives/Other Corporate Priorities

2.1 The proposals are necessary to enable the Council to discharge its functions as a taxi licensing authority.

3. Background.

3.1 Members may be aware that some authorities across the UK have been experiencing a high number of applications for Hackney Carriage Vehicle licences, and Joint Hackney Carriage and Private Hire Driver licences from applicants who live in different local authorities to the one in which they are applying to.

3.2 In 2008 a High Court Judgement – Newcastle City Council v Berwick-upon-Tweed established a principle that it was lawful for Hackney Carriages to trade as Private Hire Vehicles, (accepting only pre bookings) in a local authority area other than that which issued the licences (the home authority). See Appendix A for full judgement.

3.3 The judgement in itself was acceptable, in that many licensed vehicles trade to some extent in areas other than the home licensing authority where licences are issued. For example, residents of Bridgend may wish to travel to or from neighbouring Boroughs, such as the Vale of Glamorgan, Cardiff, Newport, or Caerphilly and this generally does not present a problem to the trade or the travelling public, being a legitimate aspect of a journey.

3.4 However, the case precedent arose as a result of a challenge from a licensing authority (Newcastle City Council) against a neighbouring licensing authority (Berwick-upon-Tweed) where there was a considerable disparity between standards of vehicles, conditions of licence and fees.

- 3.5 There were a disproportionate number of licence applications, (both personal and vehicle), in Berwick-upon-Tweed, where applicants sought to take advantage of less stringent conditions of licence and preferential fees, although vehicles and drivers were actually intending to trade exclusively in Newcastle.
- 3.6 The position of Berwick-upon-Tweed was that the less stringent conditions and lower fees applied to their licences were proportionate to the local conditions and supported a viable fleet in their Borough.
- 3.7 The position of Newcastle City Council was that the less stringent conditions and lower fees detracted from their ability to promote public safety in a city centre environment, with a consequential risk to the travelling public.
- 3.8 As a result of the decision that such activity was indeed lawful, several licensing authorities identified 'out of area' vehicles trading in their Boroughs and took steps to eliminate such trade. This primarily affected larger cities, but more recently all types of areas have been affected.
- 3.9 The principle of local control is important and a licensing authority will set out its regime to ensure that its statutory obligations to provide a service are met, whilst being proportionate to local conditions and supporting a viable fleet within the authority, with the understanding that such vehicles and drivers will trade primarily within that area.
- 3.10 With this in mind, there is the potential that remote trading could cause confusion for the public, as different types and colour vehicles from out of area marked "Hackney Carriage" operate throughout the city. This could also present a significant risk to public safety, as the authority that the vehicle is operating in does not have the same enforcement powers against drivers and vehicles from outside authorities.
- 3.11 A notable authority to have dealt with this problem is Shropshire. They were faced with a large number of their licensed vehicles operating out of Birmingham and the West Midlands. For this reason they adopted an 'Intended Use' policy in February 2012. The justification for such a policy was on the grounds of public safety, in that if vehicles are predominantly operating outside of the area where they are licensed then they are not available to be spot checked by officers when carrying out enforcement.
- 3.12 A number of Welsh authorities have also adopted Intended Use policies as a result of identifying that their hackney carriage vehicles were remotely trading in areas such as Bristol.

4. Current situation / proposal.

- 4.1 Bridgend County Borough Council currently has no policy in place to deal with intended use/ remote trading.
- 4.2 An analysis of the current drivers and vehicles licensed in Bridgend has found there are drivers from outside areas and there have been reports of Bridgend Hackney Carriages remotely trading out of the Borough.

- 4.3 A number of Welsh authorities have also adopted Intended Use policies as a result of identifying that their hackney carriage vehicles were remotely trading in areas such as Bristol.
- 4.4 It is proposed that an 'intended use/ remote trading policy' be introduced whereby applicants for new hackney carriage licences will be expected to demonstrate a bona fide intention to ply for hire within the administrative area of Bridgend County Borough Council under the terms of the licence for which an application is made, with the presumption that applicants who cannot demonstrate this will be refused a licence. It is also intended that similar policies will be introduced in the Vale of Glamorgan and the City of Cardiff, helping to harmonise policy across the Shared Regulatory Service.
- 4.5 The draft Intended Use Policy is detailed in Appendix B. This draft policy is based on the template approved by the Licensing Technical Panel of the Directors of Public Protection Wales (DPPW) which is approved for use by Welsh local authorities.

5. Effect upon Policy Framework & Procedure Rules.

- 5.1 None

6. Equality Impact Assessment

- 6.1 An initial screening has been undertaken which indicates that this policy is not likely to have a differential impact on any group of people, however this policy is subject to consultation and a further assessment will be undertaken whether a full equality impact assessment is necessary.

7. Financial Implications.

- 7.1 None. It is envisaged that any partnership work between neighbouring authorities will not significantly increase workload. However, any increase from current resources will be met from fee arrangements.

8. Recommendation.

- 8.1 It is recommended that members:

- (i) Note the content of the report;
- (ii) Give approval to consult on the introduction of an Intended Use/Remote Trading Policy in Bridgend County Borough with a further report being presented to Committee with the outcome of the consultation and a decision as to whether to adopt the policy

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Background documents

- Newcastle City Council v Berwick-upon-Tweed attached
- DPPW Intended use policy for the licensing of hackney carriages