

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO LICENSING COMMITTEE

7 MARCH 2017

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:

- To report back on the consultation undertaken in respect of a proposed "Intended Use/remote trading" policy for Hackney Carriages.
- To determine the adoption of the policy in respect of intended use/remote trading of Hackney Carriages detailed in Appendix A.

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 At the meeting of 25 October 2016, Members received a report relating to the 2008 High Court Judgement – Newcastle City Council v Berwick-upon-Tweed, which 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).

3.2 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 Authorities, such as 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.

3.3 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.

3.4 As a result of the decision that such activity was indeed lawful, several licensing authorities identified 'out of area' vehicles trading in their area and took steps to

eliminate such trade. This primarily affected larger cities, but more recently all types of areas have been affected.

- 3.5 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, subject to the specific needs of its area – with the understanding that such vehicles and drivers will trade primarily within that area. For this reason a number of authorities have adopted an ‘Intended Use’ policy. 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.
- 3.6 Members were advised that the policy is an attempt by Bridgend to deal with the problem locally and specifically deals with those predominantly trading in other areas. Licensing Enforcement Officers only have powers to deal with vehicles licensed by their own area and as such neighbouring licensing authorities would have to rely on Bridgend Licensing Enforcement Officers to regulate the Bridgend vehicles in their area and this is not practicable.
- 3.7 As a result, Members approved a consultation with the local taxi trade. This took the form of a corporate consultation between 9 December 2016 to 9 January 2017 published on the authority’s website.
- 3.8 The Council received three responses to the website questionnaire, which is attached at Appendix B. The consultation shows that there were three respondents, but only two identified themselves as taxi drivers and there is a variation in the number of questions answered.

Members attention is therefore drawn to the additional comments section. The first response states that it is submitted on behalf of the Bridgend Independent Taxi membership (BIT). The deregulation referred to relates to the Deregulation Act 2015 which made provision to allow a Private Hire Vehicle Operator to sub-contract a Private Hire Vehicle booking to another operator who is licensed in a different licensing district. The proposed policy does not prevent a person living in another borough from applying for a licence to drive or hold a proprietor licence in the Bridgend County Borough Council area. The proposed policy would impact on hackney carriage drivers who intend to trade predominantly outside the Bridgend County Borough Council areas for a substantial amount of time, and it appears that the purpose of the legislation and public safety will be compromised. E.g. a vehicle spending a substantial amount of time in another authority area would not be available to be spot checked by officers carrying out enforcement. Alternatively, enforcement officers in an area where a vehicle is remotely trading would not be able carry out any immediate enforcement action if they discover a transgression.

- 3.9 The Council also received separate email responses from Mr Dario Nelson on behalf of BIT Partners which is stated to represent Bridgend independent taxi drivers. At present this group has not yet been formally recognised as representative of the taxi trade in the County Borough.

Copies of Mr Nelson's emails are detailed in Appendix C. The organisation BIT does appear to have contributed to the consultation process and as requested at point 9 of the email, additional comments are being included in the report to this Committee.

The trade has been contacted with a view to re-establishing a Taxi Forum so that trade representatives may meet to discuss issues of concern.

- 3.10 The Intended Use Policy is based on the template provided by the Directors of Public Protection Wales (DPPW) which is approved for use by Welsh local authorities.

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 in Birmingham.
- 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. Similar policies have been introduced in The Vale of Glamorgan and The City of Cardiff, the introduction of this policy will help to harmonise policy across the Shared Regulatory Service.
- 4.5 The Intended Use Policy is detailed in Appendix A. This policy is based on the template provided by 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 There are no equality implications arising from this report.

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 Committee:

- (i) approve the adoption of the Intended Use/Remote Trading Policy as set out in Appendix A to take effect on 8 March 2017.

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Background documents

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