

Proposed Changes to the Current Policy to Include a Restriction on the Licensing for Hackney Carriages and Private Operators based outside of the Havant Borough Council Boundary

Report of the Licensing Officer

Key Decision: No

1.0 Purpose of Report

1.1 For members to consider the proposed new policy for Havant Borough Council to cease Licensing Private Hire Operators, whose operating base is not within the Borough Boundary

2.0 Recommendation

2.1 That the committee considers the recommendations within the report and to approve the new policy to refuse to licence any new Private Hire Operator based outside of the Borough and for the currently licensed Private Hire Operators based outside of the Borough to be given 36 months written notice of this new policy

3.0 Summary

3.1 That the council will not accept any new applications for Private Hire Operators that are based outside of the Havant Borough Boundary.

3.2 That any Private Hire Operator currently Licensed by Havant Borough Council but based outside the Borough boundary will be given written notice that their Operator Licence will only continue for a maximum period of 36 months from the date of the council decision

3.3 That any private Hire Operator currently licensed by Havant Borough Council may renew their Operators Licence but only for a maximum period of 36 Months from the date of the Council decision

4.0 SUBJECT OF REPORT

4.1 Havant Borough Council currently has 57 Licensed Private Hire Operators. Of these only 4 are based outside of the Borough.

4.2 Historically, some Private Hire Operators Licences have been granted to Operators based outside of the Borough of Havant as there is nothing specific

within the Local Government (Miscellaneous Provisions) Act 1976 that forbids it. Those licensed outside the Borough may have originally been based within Havant but have moved to locations outside of the Borough. If the operator is licensed by Havant Borough Council his drivers and vehicles must also be licensed by Havant therefore Havant is licensing taxis from outside the area. The current Hackney Carriage and Private Hire Policy currently contains no information or advice on the granting of Operators Licences, and it is a matter for the Licensing Authority to create a policy whereby only Operators based within the Borough can be licensed and the policy may or may not include grandfather rights for a given period of time.

- 4.3 Many other Local Authorities already have a policy in place for not licensing Private Hire Operators outside of their Borough. Of the Authorities involved in the 5 Councils project, only Hart permits licensing of Operators outside of the Councils area. Mendip, South Oxford and Vale of White Horse all have a policy of refusal. It is important that as far as possible the policies of the authorities are consistent, and the proposed change would bring Havant into line with the majority of councils involved in the project.
- 4.4 Licensing Private Hire Operators who are not located in Havant Borough presents a range of logistical problems. Enforcement has been and would remain impractical and costly due to the additional traveling needed to carry out routine inspections and deal with complaints etc. Furthermore, this distance makes it harder to check if unlicensed drivers and vehicles are being used. Problems such as parking and breaches of planning rules can also give rise to conflict with the council in whose area the Operator is situated.
- 4.5 Changes to Licensing laws under the Deregulation Act have now made it possible to legally carry out cross border sub contracting of work to another Private Hire Operator. It is therefore important to properly establish working boundaries to ensure that such activity is properly regulated and capable of being monitored and enforced.

5.0 IMPLICATIONS

5.1 Financial.

Refusing to grant or renew Private Hire Operators Licences based outside of the Borough will result in reduced income for the council in Operators fee income. In addition if the policy was approved there would likely be further reduction in income as Drivers and Vehicles used by the operator will have to be licensed by another Local Authority where the Operator is based. However the Operators licensed outside of the Borough are small companies or 'one man bands' which means the reduction of fee income will be minimal. With 4 Operators currently affected the estimated reduced fee income is £12500 over a 5 year period (equivalent to £2510 pa)

5.2 Risk.

If the council continues to licence Operators outside of the Borough there will continue to be difficulties in carrying out regular compliance inspections and investigations into complaints. The proposed policy will ensure enhanced enforcement and checks of Operator bases, drivers and vehicles thereby reducing this risk.

5.3 Human Rights and Legal implications.

Articles 1 and 6 of the Human Rights Act apply.

Article 1 states, that every person is entitled to the peaceful enjoyment of his or her possessions including for example, the possession of a licence. No licences will be removed by this policy but renewal refused after the notice period has expired.

Article 6 states that in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Any applicant for an operators licence who is outside the area can decide to bring his application before the licensing committee for consideration and also has the right to appeal to Magistrates Court.

Section 62 of the Local Government (Miscellaneous Provisions) Act 1976 enables the Licensing Authority to suspend, revoke or refuse to renew an operator's licence on any of the following grounds.

- (a) Any offence under or non compliance with, the provisions of this act
- (b) Any conduct on the part of the operator which appears to the district council to render him unfit to hold an operators licence.
- (c) Any material changes since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted, or
- (d) Any other reasonable cause

5.4 Communications.

If the Policy is approved it is believed that the affected Operators will choose to re-licence with the authority in which their business is based. No formal consultation has taken place, but if approved all those affected would be written to and informed of the change of policy and be given 36 months notice of the change to give them sufficient time to arrange to meet the new policy regarding office location or licence with their own local council.

5.5 For the Community

The Community will be provided with a safe form of public transport that is subject of the correct level of scrutiny and inspection.

5.6 An integrated Impact Assessment

Attached at Appendix A

Appendix A - Integrated Impact Assessment

Agreed and signed off by Legal Services

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