

DEPARTMENT OF ENVIRONMENT HOUSING AND NEIGHBOURHOODS

ORIGINATING SECTION: PUBLIC PROTECTION SERVICE

REPORT TO: LICENSING COMMITTEE

19:11:13

TITLE : PROPOSED INTRODUCTION OF INTENDED USE POLICY

1. PURPOSE

To inform and seek the Licensing Committee's views of the proposed introduction of intended use policies across Lancashire

2. RECOMMENDATIONS

For members to note the report and decide whether to support the introduction of an intended use policy or whether it is satisfied that the current arrangements provide sufficient control

3. KEY ISSUES

Over recent years there has been an increasing problem within certain areas of Lancashire of Hackney Carriages being licensed by Rossendale Borough Council but exclusively carrying out private hire work in other areas. At a recent meeting of the Lancashire Licensing Officer Group this issue was discussed where the Licensing Officer from Preston City Council confirmed that they had introduced an intended use policy. It was suggested that if all Council's within Lancashire were to do the same collectively it could eradicate the problem. A copy of Preston's can be found at appendix 1

4. RATIONALE

An intended use policy would introduce an additional element to the application process so that the Council will assess the intended use of the vehicle at the point of application for a new licence, the renewal of a licence, transfer of ownership and /or change of vehicle. The policy could also include a presumption that a licence holder would be referred to committee if they were found to be using the vehicle contrary to its previously stated use. Each case would be considered on its own merits.

5. POLICY IMPLICATIONS

The expertise of the Licensing Committee in this area of work is recognised, The Licensing Committee should consider the proposals and their recommendations will be forwarded to the Executive Member as part of the consultation process.

6. FINANCIAL IMPLICATIONS

N/A

7. LEGAL IMPLICATIONS

Following recent high court decisions the current legal position is as follows :

A hackney carriage vehicle which is licensed in one area, can be used to carry out pre booked private hire work on behalf of an operator licensed by a different local authority (ie they are able to work anywhere in the country)

In the proper exercise of its statutory discretion under section 37 of the Town Police Clauses Act 1847, a licensing authority is obliged to have regard (a) to whether the applicant intends that the hackney carriage if licensed will be used to ply for hire within the area of the authority, and (b) whether the applicant intends the hackney carriage will be used (either entirely or predominantly) for private hire remotely from the area of that authority.

A licensing authority may in the proper exercise of its discretion under section 37 refuse to grant a licence in respect of a hackney carriage that is not intended to be used to ply for hire within its own area and/or is intended to be used (either entirely or predominantly) for private hire remotely from the area of that authority

In determining whether to grant a licence under section 37, a licensing authority may require an applicant to submit information pursuant to section 57 of the Local Government (Miscellaneous Provisions) Act 1976 in order to ascertain the intended use of the vehicle

8. RESOURCE IMPLICATIONS

Resources will be needed to formulate an intended use policy and to consult with the relevant organisations; however these will be sourced within the Public Protection Service

9. CONSULTATIONS

If the Committee resolves to support the adoption of an intended use policy a consultation and consideration of the results would need to be carried out with Hackney Carriage Licence holders

10 . CONTACT OFFICER

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Appendix O

Intended Use Policy for the Licensing of Hackney Carriages

1 Applications for the New Grant of a Hackney Carriage Licence

2 Applications for the Renewal of a Hackney Carriage Licence

- 1.2 Applicants for new hackney carriage vehicle proprietor licences shall be expected to demonstrate a bona fide intention to ply for hire within the local authority area of Preston under the terms of the licence for which application is being made.
- 2.1 Applicants for the renewal of licences will be required to inform the Authority whether they have a bona fide intention to ply for hire within the Preston local authority area under the terms of the licence for which application is being made.

- 1.2 There will be a presumption that applicants who do not intend to a material extent to ply for hire within the local authority area of Preston will not be granted a hackney carriage vehicle proprietor's licence authorising them to do so. Each application will continue to be decided on its merits.
- 2.2 There will be a presumption that applicants who do not intend to a material extent to ply for hire within Preston will not be granted a hackney carriage vehicle proprietor's licence authorising them to do so. Section 60 of the Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act") gives the authority a broad discretion to refuse to renew a licence for any reasonable cause. Each application will be decided on its merits.

- 1.3 Even where the applicant intends to ply for hire to a material extent in the Preston local authority area, if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation will be frustrated) then, subject to the merits of the particular application, there will be a presumption that the application will be refused.

- 2.3 Even where the applicant intends to ply for hire to a material extent in the Preston local authority area, if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, subject to the merits of the particular application, there will be a presumption that the application will be refused.

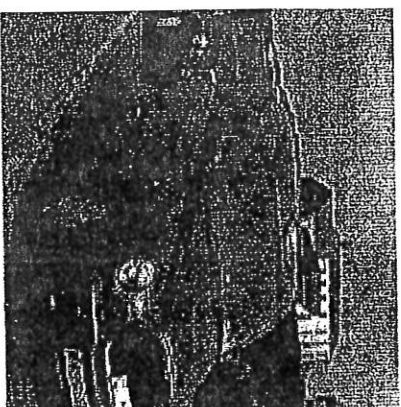
3. Transfer of Ownership of Hackney Carriage

- 3.1 The transferee of a licensed hackney carriage shall be asked to inform the Authority whether they have bona fide intention to ply for hire within the Preston local authority area. Transferees should note the obligation under Section 73 the 1976 Act to give to an authorised officer information which may reasonably be required by him for the purpose of carrying out his functions under the legislation.
- 3.2 Where the transferee of a licensed hackney carriage is found to have no intention to ply for hire to a material extent within the Preston local authority area and/or intends to trade in another local authority area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, subject to the merits of the particular case, consideration will be given (either at renewal or earlier) to the suspension or revocation of the licence. Where the transferee proposes to operate remotely from Preston there will be a presumption that his licence will be revoked. Each case will be decided on its merits.

3.2 Transferees of existing licences shall be expected to have a bona fide intention to ply for hire with the Preston local authority area under the terms of the licence in respect of the vehicle being transferred.

4. Change of Vehicle - When a Proprietor Replaces a Licensed Vehicle

- 4.1 Applicants seeking the grant of a hackney carriage vehicle proprietor's licence for a vehicle intended to replace another licensed vehicle shall be asked to inform the authority of their intended use of the vehicle. There will be a presumption that applicants who no longer intend to ply for hire to a material extent within Preston will not have the new licence granted. Even where the applicant intends to ply for hire to a material extent in Preston, if the intention is to trade in another local authority area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, subject to the merits of the particular case, there will be a presumption that the application will be refused.



5. Revocation of Licence

- 5.1 Where a licence has been granted under the terms that the applicant intends to ply for hire to a material extent within Preston but is subsequently found not to be plying for hire to a material extent in Preston and/or to be trading in another local authority area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) there will be a presumption that the licence will be reviewed by the Authority which could lead to the revocation of that licence.