

## **SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Licensing Committee      **DATE:** 4<sup>th</sup> November 2009

**CONTACT OFFICER:** Rachael Rumney – Licensing Officer  
01753 477338  
Mick Sims – Licensing Manager  
01753 477387

**WARD(S):**                      **ALL**

### **PART I**

#### **FOR DECISION**

#### **POLICY OF NOT LICENSING PRIVATE HIRE OPERATORS OUTSIDE THE BOROUGH OF SLOUGH**

1.      **Purpose of Report**

For Members to consider the proposed new policy for Slough Borough Council to cease licensing Private Hire Operators whose operating base is not within the Borough boundary.

2.      **Recommendation to Council**

That the Committee consider the recommendations detailed within the report and recommend to Council to approve the new policy not to licence any new Private Hire Operator based outside the Borough and for current Private Hire Operators based outside the Borough to be given 12 months written notice of this new policy.

3.      **Community Strategy Priorities**

- Adding years to life and Life to years
- Being Safe, Feeling safe
- Prosperity for All

4.      **Other Implications**

(a)    **Financial**

Refusing to grant or renew Private Hire Operators Licenses based outside the Borough will result in a reduced income in Operator fees. In addition if the policy was approved there would be further reduction in income as drivers and vehicles used by the Operator may have to get licensed by another local authority where the Operator is based. However the majority of those Operators licensed outside the Borough are small companies or 'one man bands' which means that the reduction in income will be minimal. There will be estimated reduced income of approximately £18,000 in a full financial year.

**(b) Risk Management**

Recommendation	Risk/Threat/Opportunity	Mitigations
From Section 2	The Council will be able to refuse to accept or grant an application for a Private Hire Operators Licence for outside the Council boundary	The new policy will ensure enhanced enforcement and checks of Operator bases, drivers and vehicles.

**(c) Human Rights Act and other Legal Implications**

Articles 1 and 6 of The Human Rights Act apply

Article 1 – states the every person is entitled to the peaceful enjoyment of his or her possessions including, for example the possession of a licence.

Article 6 – that in the determination of civil rights and obligations every one is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

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 change 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.

**(d) Equalities Impact Assessment**

An equalities impact assessment has been completed and the conclusions are that there are no adverse or negative impacts of opportunity for one group or any other reason.

**5. Supporting Information**

**Background**

- 5.1 Slough Borough Council currently has 85 licensed Private Hire Operators. Of those Operators, 25 are located and physically based outside the Borough. A full list is attached at **Appendix A** including details of location, number of vehicles operated under the licence and the expiry date of the licence.
- 5.2 Historically, Private Hire Operator licences have been granted to Operators based outside of the Borough of Slough as there is nothing specific within the Local Government (Miscellaneous Provisions) Act 1976 that forbids it, but the three licence rule must apply in that if the Operator is licensed by Slough

Borough Council so must all the drivers and vehicles. In addition some Private Hire Operators were originally based in Slough when first licensed but have over the years moved to locations outside the Borough. It is a matter for the licensing authority to create a policy whereby only Operators physically based within the Borough can be licensed and that the policy may or may not include grandfather rights for a given period of time.

- 5.3 South Bucks District Council already has a policy in place for not licensing Private Hire Operators outside their Borough boundary and on 19<sup>th</sup> October 2009 the Royal Borough of Windsor and Maidenhead (RBWM) also approved a policy of not licensing private Hire Operators out their Borough Boundary
- 5.4 Licensing Private Hire Operators who are not located in Slough present a range of logistical problems. Enforcement has been and would remain impractical and costly due to the distances Officers would be required to travel to carry out routine inspections of the distant operating bases. Furthermore, with this logistical problem Officers would never know if unlicensed drivers and vehicles are being used.
- 5.5 Some Private Hire Operators have Operators Licenses not only for their physical base in Slough but also with RBWM for the same premises. These are referred to as dual Operating Licenses and this again has caused Officers from both Slough and RBWM considerable problems in ensuring the companies are operating legally. In essence the ruling by way of case stated in ***Dittah v Birmingham City Council [1993] RTR 356*** must apply in that where an Operator is licensed with a district council i.e. Slough Borough Council then the Operator must only use drivers and vehicles licensed by Slough Borough Council, likewise if the Operator is licensed by RBWM then they must only use drivers and vehicles licensed by RBWM.
- 5.6 The problems that have been encountered over the last year are that some Operators have failed to comply with the above ruling and in addition they have not been maintaining separate records for each Operators Licence with regards to taking bookings, licensed drivers, vehicles and call signs and also separate telephone numbers. This has necessitated officers carrying out regular time consuming inspections to advise and educate some operators to ensure that they are complying with the requirements of the above ruling. The implementation of this policy for Slough Borough Council and by RBWM will negate this area of possible non-compliance.
- 5.7 A full consultation has been conducted with all Private Hire Operators licensed by Slough Borough Council on 16<sup>th</sup> July 2008, 15<sup>th</sup> June 2009 and finally notifying them of the proposals on 5<sup>th</sup> August 2009. Copies of the consultation letters are attached at **Appendix B** and responses to the consultation attached at **Appendix C**.
- 5.8 It is believed that a number of Private Hire Drivers and their vehicles currently licensed by RBWM will instead apply to be licensed by Slough Borough Council as the physical base is situated in Slough which will reduce the reduction in income by a considerable amount. One Operator has already taken this particular route to ensure compliance.

## 5.9 **Proposed New Policy**

- That the Council will not accept any new applications for Private Hire Operator Licences, to be based outside the Borough boundary.
- That any Private Hire Operator currently licensed by Slough Bough Council based outside the Borough boundary will be given written notice that their Operators licence will only continue for maximum period of 12 months from the date of the Council decision.
- That any Private Hire Operator currently licensed by Slough Bough Council based outside the Borough boundary may renew their Operators licence but only for the maximum period of 12 months from the date of the Council decision.

5.10 These proposals will ensure that sufficient time is given to the Operators and if necessary the drivers and vehicles used by that Operator to be licensed by the Local Authority in which they are based.

## 6. **Comments of Other Committees**

None.

## 7. **Conclusion**

The Committee is asked to consider the proposals detailed within this report and approve the new policy and to place an immediate restriction on licensing of new Private Hire Operators whose operating base is not located within Slough.

## 8. **Appendices attached**

'A'- List of Operators

'B'- Copy of consultation letters

'C'- Responses to consultation

## 9. **Background Papers**

1. The Local Government (Miscellaneous Provisions) Act 1976
2. Court ruling '*Dittah v Birmingham City Council [1993] RTR 356*'
3. Equality Impact Assessment Screening