

Bolsover District Council

Council

3rd April 2019

**PART II OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS)
ACT 1976 WITHIN THE DISTRICT OF BOLSOVER**

Report of the Portfolio Holder for Corporate Governance

This report is public

Purpose of the Report

- To set out the required stages of the legal process to confirm the re-adoption of the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 ('the 1976 Act') for the whole of Bolsover District Council, administrative area.

1 Report Details

- 1.1 Licensing of hackney carriage and private hire vehicles, drivers and operators is governed by several pieces of legislation. All licensing of private hire, and some provisions relating to hackney carriages, derive from Part II of the Local Government (Miscellaneous Provisions) Act 1976.
- 1.2 All Councils which licence these trades were required to adopt Part II of the Act. Bolsover District Council is unable to evidence the date that the Act was formally adopted.
- 1.3 It is therefore considered that Council formally (re)adopt the Act (to the extent it is not already in force) as a high priority.
- 1.4 There is no intention to change the existing position with respect to Part II of the 1976 Act therefore all policies, practices, conditions and delegations will continue unchanged where applicable.
- 1.5 The procedure for formal adoption of the provisions is set out in full in section 45 of Part II the 1976 Act. The Act can be viewed online at <http://www.legislation.gov.uk/ukpga/1976/57> and a copy can be made available on request to the Legal Services team.
- 1.6 There are two stages: (1) there must be a resolution of the Council adopting the provisions of Part II of the 1976 Act (the "Adoption Resolution") and (2) there

must be compliance with certain matters prior to the Adoption Resolution as set out below.

1.7 Appropriate wording for the Adoption Resolution is set out in Annexe 3.

1.8 Prior to adoption the Council is required to:

- (a) Publish for two consecutive weeks, in a local newspaper circulating in our area, a notice of our intention to pass the resolution.

An appropriately worded notice is to be published in the Derbyshire Times on 11th and 18th April 2019. The proposed wording of the notice is shown in Annexe 1.

- (b) Serve a copy of the notice, not later than the date on which it is first published above, on the council of each parish or community which would be affected by the resolution.

The intention is that the notice will be served on the relevant parish and town council clerks on or before 11th April 2019. A full list of all parish and town councils within the district and who will be served is shown in Annexe 2.

2 Conclusions and Reasons for Recommendation

2.1 The Council need to ensure that we can evidence formal adoption of the Act and comply with the statutory requirements in terms of notice in the local paper and within each parish.

3 Consultation and Equality Impact

3.1 Consultation issues are outlined in the report.

4 Alternative Options and Reasons for Rejection

4.1 Not being able to evidence formal adoption of the Part II of the Local Government (Miscellaneous Provisions) Act 1976 but the Council at risk of challenge and is not an option.

5 Implications

5.1 Finance and Risk Implications

5.1.1 The cost implication relating to the publication of statutory notices can be met from the existing licensing budget.

5.2 Legal Implications including Data Protection

5.2.1 Having a formal resolution to adopt the Act, and evidence of the notice and consultation with Parishes in the district is essential to ensure that we have complied with the requirements for Adoption of the Act and to enable enforcement action.

5.3 Human Resources Implications

5.3.1 None.

6 Recommendations

6.1 That Council approves the intention to pass a resolution to adopt, to the extent they are not already in force, the provisions of Part II of the 1976 Act in relation to the whole district as set out in Annexe 3.

6.2 That the Council publish notice of its intention to adopt the Act in accordance with the legal requirements.

6.3 That copies of the notices be served on all parish councils within the District in accordance with the Act.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC:</i> Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> <i>NEDDC:</i> Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
Has the relevant Portfolio Holder been informed	Yes
Links to Corporate Plan priorities or Policy Framework	All

8 Document Information

Appendix No	Title
1.	Proposed wording of the notice to be published in Derbyshire Times.
2.	A full list of all parish and town councils within the district and who will be served
3.	Appropriate wording for the Adoption Resolution is set out in Annexe 3.
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
None	
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