

Report of: Head of Legal and Democratic Services.

To: General Purposes Licensing Committee

Date: 28th October 2008 **Item No:**

Title of Report: Vehicle Licensing Review – Transfer of Licences

Summary and Recommendations

Purpose of report: To clarify legal advice on the transfer of licences.

Key decision: No

Portfolio Holder: N/A

Report Approved by:

Sarah Fogden	Finance
Jeremy Thomas	Legal & Democratic Services

Policy Framework: None

Recommendation(s):

The Committee is RECOMMENDED to:-

- Note the Council resolutions of 30th June 2008
- Note the legal advice concerning the transfer of hackney carriage vehicle licences
- Not place any restriction on the transfer of hackney carriage vehicle licences.

Background

1. At its meeting on 30th June 2008 Council considered the recommendations of the former Environment Scrutiny Committee 14th January 2008 and the General Purposes Licensing Committee 16th January 2008 in relation to rickshaw and taxi licensing.
2. In relation to possible restrictions on the transfer of hackney carriage vehicle licences Council asked officers to report further and clarify the position on the legality of such restrictions.

Restriction on transfer of Hackney Carriage Licences

3. The transfer of hackney carriage licences is governed by the Local Government (Miscellaneous Provisions) Act 1976 (the Act). Section 49 of the Act allows a proprietor to transfer his interest in the hackney carriage to another person providing that he notifies the Council of the transfer and the new proprietor's details within 14 days.
4. Section 60 of the Act allows a district council to suspend, revoke or refuse to renew a hackney carriage licence for '*any reasonable cause*'. It is arguable that this power could be used by a district council with a numbers restriction on licences to refuse a transfer to a new proprietor because there is already a waiting list of people for hackney carriage licences. However, it would not be a '*reasonable cause*' for refusal as it would amount to a ban on transfer and the right to transfer is specifically provided by section 49.
5. An existing hackney carriage licence constitutes property owned by the licence holder. The right to hold property is protected by the Human Rights Act 1998. Property rights may only be removed or interfered with according to law and in the public interest. A ban on the transfer of hackney carriage licences with no legal basis is likely to be contrary to the Human Rights Act.
6. In conclusion a restriction on transfer of licences using section 60 of the Act would be of doubtful effect and taking into account section 49 and the Human Rights Act 1998 would be unlawful.

7. Recommendation

That Committee note this advice and not place any restriction on the transfer of hackney carriage vehicle licences

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Background papers: None