

REPORT OF THE DIRECTOR OF CORPORATE AFFAIRS AND BUSINESS  
TRANSFORMATION

RE-ADOPTION OF PART II OF THE LOCAL GOVERNMENT (MISCELLANEOUS  
PROVISIONS) ACT 1976 WITHIN THE DISTRICT OF MID DEVON

**Responsible Officer** Simon Newcombe, Public Health and Professional  
Services Manager

**REASON FOR REPORT**

1. To set out the final stage 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 Mid Devon administrative area. Part II of the 1976 Act contains provisions relating to the licensing of private hire and hackney carriage vehicles, drivers and operators.

**RECOMMENDATIONS**

1. That the Regulatory Committee approves the passing of a resolution as set out in Annexe 3 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.
2. That adoption of Part II of the 1976 Act shall come into effect on 12 December 2016, this being a date not less than one-month after the day the resolution is passed.

**RELATIONSHIP TO CORPORATE PLAN**

1. There are no direct links to the Corporate Plan, nonetheless re-adoption will help ensure taxi licensing standards within the district and contribute to the economy in addition to ensuring public safety of our community and visitors.

**FINANCIAL, LEGAL AND RISK ASSESSMENT IMPLICATIONS**

Any financial, legal and/or risk assessment implications are set out below:

<b>Financial</b>	The cost implication relating to the publication of statutory notices has been met from the existing licensing budget. This is potentially recoverable through the licensing fee regime
<b>Legal</b>	<p>This report relates to the adoption of the above provisions. These deal with regulation of private hire and hackney carriage matters.</p> <p>The regulation of hackney carriages goes back to the Town Police Clauses Act 1847 (the 1847 Act). Originally, these provisions required adoption in each local authority area. But a number of subsequent</p>

	<p>provisions (including those of the Public Health Act 1875 and the Transport Act 1985) have meant that the 1847 Act now applies automatically throughout the district.</p> <p>However, Part II of the 1976 Act remains an adoptive provision.</p> <p>The adoption procedure is set out in full in section 45 of the 1976 Act. There are two stages: (1) there must be a resolution by 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. In addition to complying with these two stages there is a pre-condition that the 1847 Act is in force in the area which is met. The procedure and compliance is summarised in Section 2 below.</p> <p>The actual adoption of the 1976 Act is a Council function delegated to the Regulatory Committee under the Council’s Constitution.</p>
<b>Risk Assessment</b>	<p>Without undertaking the process set out herein the Council cannot continue to provide adequate evidence of adoption of the 1976 Act.</p>

**CONSULTATION CARRIED OUT WITH:**

1. The Legal Services Manager
2. Lead Officer – Licensing Team
3. The Chief Executive, Management Team and Leadership Team

**1.0 INTRODUCTION**

- 1.1 Part II of the 1976 Act contains provisions relating to the licensing of private hire and hackney carriage vehicles, drivers and operators. Adopting the 1976 Act therefore enables the Council’s taxi licensing function to operate including the setting of fees and for carrying out its enforcement duties.
- 1.2 Most recently after the 1976 Act came into force, in May 1994 under the constitution in place at the time, the Environment and Amenities (E&A) Committee resolved that the Council should adopt Part II of the 1976 Act. Following compliance with the statutory procedures this came into effect from 18 August 1994.
- 1.3 A routine service review of the adoption of the Act completed during August 2016 evidenced the resolution above, unfortunately during the intervening twenty-two years the original press notices and the parish/town council notices do not fully survive, therefore cannot be produced.
- 1.4 The outcome of the above review was subsequently highlighted in the report of an audit of the Licensing team by internal audit services also in August 2016. The report recommendation E.2 has set out that the adoption of the Act be re-evidenced and therefore that Regulatory Committee formally (re)adopt the Act (to the extent it is not already in force) as a high priority. A target date of no later than 31 December 2016 has been fixed in order to allow for statutory procedures to be followed. The audit

outcomes were reported and agreed at the meeting of the Audit Committee on 20 September 2016.

- 1.5 Since records can now be scanned/duplicated and held electronically there is a significantly greater chance that the records of adoption will be traceable in the future.
- 1.6 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.

## **2.0 PROCEDURE FOR ADOPTING PART II OF THE 1976 ACT AND COMPLIANCE**

- 2.1 The procedure 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 is also available in the Legal Services team.
- 2.2 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.
- 2.3 Appropriate wording for the Adoption Resolution is set out in **Annexe 3**.
- 2.4 Prior to adoption the Council is required to:

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

*An appropriately worded notice was published on the 11 October and 18 October 2016 in the Culm Valley, Crediton and Tiverton Gazette newspapers. The wording of the notice is shown in Annexe 1. For copyright reasons, scanned copies of the original notices cannot be included in this published/publically available report, however copies and originals are held on internal records.*

- (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.

*A copy of the notice was served on the majority of councils by email on 07 October 2016. A full list of all receiving parish and town councils (there are no community councils) is shown in Annexe 2. Two parishes (Clannaborough and Loxbeare) currently have no clerk, chairman or parish meeting therefore cannot directly receive the notice. As an alternative the Mid Devon ward members for these areas have received the notice.*

## **3.0 RECOMMENDATIONS**

- 3.1 In consideration of the above, it is recommended that:
  - That the Regulatory Committee approves the passing of 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**.
  - That adoption of Part II of the 1976 Act shall come into effect on **12 December 2016**, this being a date not less than one-month after the day the resolution is passed.

<b>Contact for any more information</b>	Simon Newcombe (01884 244615 or <a href="mailto:snewcombe@middevon.gov.uk">snewcombe@middevon.gov.uk</a> ) and Simon Johnson (01884 234210 or <a href="mailto:sjohnson@middevon.gov.uk">sjohnson@middevon.gov.uk</a> )
<b>Background Papers</b>	<p>Local Government (Miscellaneous Provisions) Act 1976 – Part II, as amended</p> <p>Copies of the statutory notice published in the Culm Valley, Crediton and Tiverton Gazette newspapers on 11 October 2016 and 18 October 2016</p> <p>Copies of statutory notice served on the Parish and Town Councils as listed in Annexe 2 on 07 October 2016, together with relevant cover letter/email and confirmation of receipt</p> <p>Council minute 9 dated 25/04/94 E&amp;A Committee</p>
<b>File Reference</b>	SN/Public Health/Licensing
<b>Circulation of the Report</b>	<p>Chief Executive  Management Team  Leadership Team  Legal Services Manager  Lead Officer – Licensing Team  Regulatory Committee</p>

## ANNEXE 1

Wording of statutory notice published on 11 October and 18 October 2016 in the Culm Valley, Crediton and Tiverton Gazette newspapers and also served on parish and town councils (as listed in Annexe 2):

---

---

**MID DEVON DISTRICT COUNCIL**  
**Part II Local Government (Miscellaneous Provisions) Act 1976**

NOTICE IS HEREBY GIVEN in accordance with section 45(3) of the Local Government (Miscellaneous Provisions) Act 1976 ('the 1976 Act'), that it is the intention of Mid Devon District Council ('the Council'), to pass a resolution at a meeting of the Regulatory Committee on 11 November 2016 that the provisions of Part II of the 1976 Act (other than section 45) shall be adopted and shall apply within the District of Mid Devon District Council, with effect from 12 December 2016.

Simon Johnson  
Legal Services Manager

---

**ANNEXE 2**

List of parish and town councils served the statutory notice detailed in Annexe 1 on 07 October 2016:

Bampton Town Council  
Bickleigh Parish Council  
Borden Gate Parish Council  
Bow Parish Council  
Bradninch Town Council  
Burlescombe Parish Council  
Chawleigh Parish Council  
Cheriton Bishop Parish Council  
Cheriton Fitzpaine Parish Council  
Clannaborough Parish Council\*  
Clayhidon Parish Council  
Coldridge Parish Council  
Colebrooke Parish Council  
Coplestone Parish Council  
Crediton Hamlets Parish Council  
Crediton Town Council  
Cruwys Morchard Parish Council  
Cullompton Town Council  
Culmstock Parish Council  
Down St Mary Parish Council  
Halberton Parish Council  
Hemyock Parish Council  
Hittisleigh Parish Council  
Holcombe Rogus Parish Council  
Kentisbeare Parish Council  
Lapford Parish Council  
Loxbeare Parish Council\*  
Morchard Bishop Parish Council  
Morebath Parish Council  
Newton St Cyres Parish Council  
Nymet Rowland Parish Council  
Oakford Parish Council  
Poughill Parish Council  
Puddington Parish Council  
Sampford Peverell Parish Council  
Sandford Parish Council  
Shobrooke Parish Council  
Silverton Parish Council  
Stoodleigh Parish Council  
Templeton Parish Council  
Thelbridge Parish Council  
Thorverton Parish Council  
Tiverton Town Council  
Uffculme Parish Council  
Uplowman Parish Council  
Washfield Parish Council  
Washford Pyne Parish Council  
Wembworthy Parish Council  
Willand Parish Council  
Zeal Monachorum Parish Council

*\* do not have a clerk, chairman or parish meeting so notice received by the MDDC ward member(s)*

### **ANNEXE 3**

### **ADOPTION RESOLUTION**

**RESOLVED:**

(1) To the extent that they are not already in force the provisions of Part II of Local Government (Miscellaneous Provisions) Act 1976 1976 Act, (other than section 45), are to apply to the whole area of the Council on and after the appointed day;

(2) The appointed day for the purposes of this resolution shall be 12 December 2016 (being not before the expiration of the period of one month beginning with the day on which this resolution is passed).

(3) All powers, duties and provisions in the Council's Constitution relating to Part II of the Local Government (Miscellaneous Provisions) Act 1976 and all existing policies, practices and conditions relating thereto shall continue to apply on and after the appointed day.