

Subject:	Consideration of report by the Local Government Ombudsman	Status:	For Publication
Report to:	Cabinet	Date:	13 th September 2017
Report of:	Director of Communities	Portfolio Holder:	Regulatory Services
Key Decision:	<input type="checkbox"/> Forward Plan <input checked="" type="checkbox"/>	General Exception	<input type="checkbox"/> Special Urgency <input type="checkbox"/>
Equality Impact Assessment:	Required:	No	Attached: No
Biodiversity Impact Assessment	Required:	No	Attached: No
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1.	RECOMMENDATION(S)
1.1	That Members consider the content of this report and the attached Local Government Ombudsman report and decide whether or not to accept the recommendations made by the Ombudsman

2. PURPOSE OF REPORT

2.1 To inform members of the report of the Local Government Ombudsman in relation to complaint number 15 011 613 published on 8th June 2017 and its recommendations.

3. CORPORATE PRIORITIES

3.1 The matters discussed in this report impact directly on the following corporate priorities:

- **A clean and green Rossendale:** our priority is to keep Rossendale clean and green for all of Rossendale’s residents and visitors, and to take available opportunities to recycle and use energy from renewable sources more efficiently.
- **A connected and successful Rossendale that welcomes sustainable growth:** our priority is to ensure that we are well connected to our residents, key partners and stakeholders. We want to make the most of every pound we spend and we are always looking for new and innovative ways to make the resources we do have, work harder for us.
- **A proud, healthy and vibrant Rossendale:** our priority is to ensure that we are creating and maintaining a healthy and vibrant place for people to live and visit.

4. RISK ASSESSMENT IMPLICATIONS

4.1 All the issues raised and the recommendation(s) in this report involve risk considerations as set out below:

- Acceptance of the recommendations may lead to the Council being subject to further claims

5. BACKGROUND AND OPTIONS

In this report, individuals will be referred to as Mr X and Miss Y in line with the terms used in the report of the Local Government Ombudsman.

5.1 The report at **Appendix A** is from the Local Government Ombudsman in relation to a complaint received from a Mr X on behalf of his daughter Miss Y.

The background to the complaint is that on 26th May 2015, Miss Y applied for a hackney carriage driver licence with Rossendale Borough Council. The licence was issued on 16th September 2015.

Mr X complained to the Council that the process took too long and that as a result Miss Y was unable to work and support her family. Following investigation into the claim we did not uphold the complaint and maintained our position. Mr X then complained to the Ombudsman.

5.2 The details of the investigation carried out by the Ombudsman are set out in paragraphs 6-15 of their report.

Details of their conclusions are set out in paragraphs 16-25.

5.3 However, the Ombudsman has drawn these conclusions based on an inaccurate legal position.

5.4 As outlined, in 5.1 the basis of Mr X's complaint was in relation to the issuing of a hackney carriage drivers licence.

In paragraph 18 of their report the Ombudsman states;

It is the result of the Council's policy decision not to place restrictions on taxi drivers from outside the borough applying to it for licences. The Council chose to adopt a policy which had the potential to attract high volumes of applicants from across the country

Paragraph 19 states;

When drafting this policy it was open to the Council to restrict the issuing of licences to drivers intending to ply for hire in the borough. But it chose not to.

Legally, a council cannot put restrictions on driver application numbers, only on vehicle applications. The Council has the ability to introduce policies designed to test the basic skills and knowledge etc. but it cannot restrict numbers based on geographic, intended use or any other criteria. This can only be done in relation to vehicle licences.

Miss Y was not applying for a vehicle licence.

The assumption that we could have stopped individuals applying for driver's licences is therefore inaccurate.

Contrary to the Ombudsman's conclusions, it is the Council's argument that this situation **was** a case of the alleged delay being caused by short term staff shortages and unforeseen circumstances which temporarily affected the day to day running of the licensing department.

It was **not** because of the Council's policy decision not to place restrictions on taxi drivers from outside the borough applying to it for licences, because legally the Council cannot introduce such a policy.

In relation to the conclusion that 16 weeks is an excessive length of time to process and issue a hackney carriage drivers licence, this is in line with, and in some cases quicker than a number of other local authorities who have not been subject to unprecedented demand for drivers licences.

For example, Transport for London advises that the process will take 16 weeks, Renfrewshire between 3 and 9 months, and Shropshire within 6 months. Trafford Council currently has a 2 year wait for an appointment and is processing email applications received on 18th August 2016.

In September 2015, the month when Miss Y was issued with her driver's licence, a total of 474 driver's licences were issued. Applications for all these licences were received in May 2015.

Paragraph 22 of the Ombudsman's report quite correctly points out that we published on our website when applications received for licences were being processed. This did not say when the licences were being issued, but merely when the process had been started.

The Council accepts that the recent introduction of a knowledge and conditions test will have the effect of reducing the numbers of new applicants, but it cannot impose restrictions on numbers of applications for drivers licences purely based on address or intention to work outside the district.

If the applicant passes the test, and other criteria then they are entitled to be licensed regardless of where they live.

COMMENTS FROM STATUTORY OFFICERS:

6. SECTION 151 OFFICER

6.1 The Ombudsman has recommended a payment to Miss Y of £350.

7. MONITORING OFFICER

7.1 Under section 31(2) Local Government Act 1974 the Council must consider this report and confirm to the Ombudsman the action it has taken or proposes to take.

8. POLICY IMPLICATIONS AND CONSULTATION CARRIED OUT

8.1 Section 30 of the 1974 Act requires the Council to place two public notice announcements in local newspapers/newspaper websites within two weeks of receiving the report. Notices were therefore placed in the Rossendale Free Press and Lancashire Telegraph and the Ombudsman was advised accordingly. The Council has also made copies of the report available free of charge at the One Stop Shop.

9. CONCLUSION

9.1 Members are asked to consider the report of the Local Government Ombudsman, and the contents of this report and based on all available information, decide whether to;

1. Accept the contents of the Local Government Ombudsman report and its recommendations
2. Reject the contents and recommendations of the report

Background Papers

Document	Place of Inspection
Report by the Local Government Ombudsman	Appendix A