

REPORT TO	ON
GENERAL LICENSING COMMITTEE	19 SEPTEMBER 2017

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TITLE	AUTHOR
“OUT OF TOWN” DRIVERS: REQUEST FOR SUPPORT FOR NATIONAL CAMPAIGN	PETER HAYWOOD

## 1. PURPOSE OF THE REPORT

- 1.1 This report will update members on a national campaign coordinated by Transport for London, with a view to addressing the issues arising from Hackney Carriage and Private Hire drivers who are licensed in one local authority being able to drive legitimately in other areas where they do not hold a licence.

## 2. RECOMMENDATIONS

The Committee is requested to:

- 2.1 note the details of the campaign promoted by Transport for London (as set out in section 5 below); and
- 2.2 consider the draft letter of support for the campaign (attached as Appendix 2) with a view to determining whether to send this to the Minister of State with responsibility for taxi policy on behalf of the local authority; and
- 2.3 if the decision is taken to send a response to the consultation, determine whether the letter should be signed by the Chair of the General Licensing Committee; relevant Portfolio Holder; or an approach should be made to the Leader of the Council.

## 3. CORPORATE PRIORITIES

The report relates to the following corporate priorities:

Clean, green and safe	X	Strong and healthy communities	
Strong South Ribble in the heart of prosperous Lancashire		Efficient, effective and exceptional council	

## 4. BACKGROUND TO THE REPORT

- 4.1 Members will recall that, on 11 July 2017, they received a report outlining the various methods by which a driver who is licensed in another local authority may be able to drive legitimately in the South Ribble area. This included detailed discussion of two areas in particular:
- i) under the Deregulation Act 2015, operators licensed in South Ribble may choose to sub-contract a booking to an operator licensed in any other local authority, leading to a driver not licensed by South Ribble Borough Council legitimately taking fares in this Borough; and
  - ii) case law which permits holders of a Hackney Carriage Driver’s Licence granted in one borough to act as a Private Hire driver in the area of another. This issue has been

increasingly recognised in recent years as an area of real concern, with the July report identifying a number of perceived risks (especially those arising from a lack of enforcement powers for the host authority).

4.4 With regard to the Deregulation Act, the Committee noted the position but chose not to take any further action due to the legitimacy given by statute law. In relation to the problems arising from case law, the Committee acknowledged the concerns arising from the decisions in Newcastle City Council v Berwick upon Tweed Borough Council and Stockton-On-Tees Borough Council v Fidler, Hussain & Zamanian; these cases identified that once a vehicle has been licensed as a Hackney Carriage, it is a Hackney Carriage for the duration of that licence (wherever it is currently located) and can therefore be used for pre-booked (private hire) purposes in any district in England and Wales. The judgments make it clear that it is not an offence for a licensed Private Hire operator to take bookings but then dispatch a Hackney Carriage licensed by a district (or Transport for London - TfL) which is different from that which licences the operator. In order to be reassured that the Borough Council was taking all reasonable steps to discourage this practice, the Committee agreed to consult on the introduction of an Intended Use Policy. This consultation has taken place during the month of August 2017, and a further report summarising the consultation responses will be put before members at their October meeting.

## 5. NATIONAL CAMPAIGN

5.1 Transport for London (TfL) is the body which licenses all Hackney Carriage and Private Hire vehicles on a pan-regional basis across the capital. In August 2014, TfL sent an email to all licensing authorities across England and Wales. A copy of that email is attached as Appendix 1. The email outlines a national campaign which TfL is launching, with a view to addressing the concerns which have arisen in relation to “cross border hiring”.

5.2 Cross border hiring occurs when a Hackney Carriage or Private Hire driver licensed in one local authority is legitimately entitled to drive in another local authority, thereby circumventing the ability of local Licensing enforcement staff to take meaningful action against that driver (as this can only be done by Licensing staff from the authority where the licence is held.)

5.3 From a TfL perspective, concerns about cross border hiring arise primarily in relation to Uber and the Deregulation Act. For instance, it has been alleged that – in areas where Uber holds an operator licence but finds local licensing requirements to be restrictive – the company will look to get around this by importing vehicles and drivers licensed by London authorities. Under the Deregulation Act 2015, such a practice is perfectly legal.

5.4 Whilst noting that members of the General Licensing Committee have expressed concern about Uber, it is suggested that of greater local concern is the case law identified in section 4.4 of this report and the way that some local authorities have sought to exploit this loophole. In either case, the end result is the same – drivers not licensed by South Ribble are able to drive in South Ribble.

5.5 In seeking to gather support for their campaign, TfL notes that:

“It seems inconceivable that Government intended taxi and private hire licensees to obtain licences from a local authority with the intention of working 100 per cent of the time outside that local authority.”

The General Licensing Committee is likely to share this view – hence its recent decision to consult on the proposed Intended Use Policy.

5.6 The TfL email (signed by the Deputy Mayor for Transport, Valerie Shawcross CBE) goes on to conclude:

“I hope you agree with me that we need an urgent change in the law so that all taxi and private hire journeys should either start or end in the area **for which the vehicle, driver and operator are licensed.**” [ report author’s emphasis]

The Committee may share this sentiment – if this principle were to be adopted, then the problem of “out of town drivers” would clearly be reduced as a far greater local component would be introduced to each journey if it were to remain within the law. The Committee is therefore asked to consider whether it would be appropriate for a supportive response to be sent to Ms Shawcross on behalf of the authority. In anticipation of this, a draft response has been prepared with a view to aiding members’ discussions; a copy of this is attached as Appendix 2. It is accepted that the emphasis of this draft is clearly on the case law scenario set out in section 4.4.above; should members wish any final response to also reflect concerns about the Deregulation Act, this can of course be incorporated.

5.4 Finally, should the Committee support the proposal to write to the Minister of State with responsibility for taxi policy, members may wish to consider whether the correspondence should be sent from the Chair of the Committee or the Portfolio Holder. Alternatively, an approach could be made to the Leader of the Council to establish if the letter could be sent in his name.

## 6. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

### 7.1 Comments of the Statutory Finance Officer

### 7.2 Comments of the Monitoring Officer

SRBC has recently consulted on the proposed Intended Use Policy, with the results of the same to be presented at the October GLC. If the Policy is adopted, then it will provide this Council with some control against those who do not adhere to the same. Nevertheless, as this is a national issue the approach suggested in the report would provide the Government with information to show that it is a real issue which requires addressing.

<p><b>Other implications:</b></p> <ul style="list-style-type: none"> <li>• <b>Risk</b></li> <li>• <b>Equality</b></li> <li>• <b>HR</b></li> </ul>	<p>There are numerous risks arising from the current position which permits a Hackney Carriage driver who is licensed in one authority to drive as a Private Hire driver in another. Specifically, there is a lack of control for the host authority over such a driver (as he / she is licensed elsewhere). The aim of the campaign which members are asked to support is to make the Government aware that this is a national issue which requires addressing.</p> <p>None identified</p> <p>None identified</p>
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## 8. BACKGROUND DOCUMENTS (or there are no background papers to this report)

- Appendix 1 – email request from Transport for London
- Appendix 2 – draft response for members to consider

