

## **THE USE OF THIRD PARTY VEHICLES BY PRIVATE HIRE OPERATORS**

### **SUMMARY**

- 1.1 A report was presented at committee on 11 April 2013 following a request for a review to be undertaken in relation to the use by private hire operators of third party vehicles, particularly hackney carriages, licensed by other authorities.
- 1.2 The committee resolved to authorise a consultation with private hire operators, private hire vehicle licence holders and hackney carriage vehicle licence holders on the basis of proposals set out in the report and requested a report back to committee with the outcome of that consultation with final recommendations to the committee.

### **RECOMMENDATION**

- 2.1 To adopt the provisions set out in Appendix 3 as additional conditions to be attached, as appropriate, to private hire operators licences, private hire vehicle licences and hackney carriage vehicle licences.
- 2.2 To amend the Operators conditions and Vehicle conditions as reflected in Appendix 3.
- 2.3 To request the Service Director of Environment and Regulatory Services to send a copy of the revised conditions, as appropriate, to private hire operators licences, private hire vehicle licences and hackney carriage vehicle licences.

### **REASONS FOR RECOMMENDATION**

- 3.1 In order to secure that effective safeguards are in place to mitigate against any public safety impact of the use of third party vehicles, including the use of vehicles licensed by other authorities, by private hire operators.

### **SUPPORTING INFORMATION**

- 4.1 A report was presented at committee on 11 April 2013 following a request for a review to be taken in relation to the use of Hackney Carriages licensed by other authorities, this being a manifestation of one of the problems this report is seeking to address.

4.2 The committee resolved:

1. to authorise the Service Director, Environmental and Regulatory Services, to go out to consultation with private hire operators, private hire vehicle licence holders and hackney carriage vehicle licence holders on the basis of the proposals set out in Appendix 2.

2. to task the Service Director, Environmental and Regulatory Services to report back to committee with the outcome of that consultation, and make final recommendations to the committee.

4.3 A consultation exercise has been undertaken. Over 1200 consultation packs have been sent to private hire vehicle owners, hackney carriage vehicle owners and private hire operators. 76 responses/comments were received and a summary of these is attached at Appendix 2.

4.4 In 2010, the High Court handed down a judgment in the case of Stockton-On-Tees Borough Council v Fidler, Hussain & Zamanian. This 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.

4.6 The judgment makes it clear that it is not an offence for a licensed private hire operator to take bookings, and then dispatch a hackney carriage licensed by a district (or TfL) which is different from that which licences the operator, to undertake the booking.

4.7 It also confirms that a hackney carriage vehicle can be used for pre-booked work outside the district in which the vehicle has been licensed, even if that district is some considerable distance from the district in which the vehicle is undertaking the pre-booked work.

4.8 The situation creates a number of potential difficulties for us as a licensing authority and for other enforcement agencies, members of the public and the trade. These include:

- prejudice to public safety
- absence of documented records to assist with enforcement
- inconsistent standards
- increase in illegal 'plying for hire'
- the inability to enforce or undertake spot checks on these vehicles (although the Police or VOSA have jurisdiction of any licensed vehicle, regardless of where they are licensed)
- confusion for the customer
- reduced DDA compliance
- conflict amongst the two sides of the licensed trade
- loss of income to the local authority

- 4.9 In order to control the situation as far as is lawfully possible, it is important for all those affected by the ruling to understand the limits of the Stockton case in relation to what is allowed, and more importantly, what is not. This has become a significant issue here in Derby because of an influx of hackney carriages licensed by Gedling Borough Council into the city. Anecdotally, it is also understood from Gedling Borough Council that there has been a noticeable and significant increase in licence applications at their end by drivers (and their vehicles) licensed by Derby.
- 4.10 Having considered the responses to the consultation, it is recommended by officers that the conditions reflected in Appendix 3 are adopted by the Council to address the significant public safety shortcomings that arise from the decision if, without more, the use of third party vehicles for private hire work by private hire operators is not effectively regulated. Your officers are satisfied, in the circumstances, that it is 'reasonably necessary' to do so under Part II of the Local Government (Miscellaneous Provisions) Act 1976.

## OTHER OPTIONS CONSIDERED

- 5.1 To take no action.
- 5.2 This is not considered a viable option, bearing in mind the variety of practical public safety concerns already identified by fare paying passengers and members of the trades.

**This report has been approved by the following officers:**

<b>Legal officer</b> <b>Financial officer</b> <b>Human Resources officer</b> <b>Service Director(s)</b> <b>Other(s)</b>	Olu Idowu - - John Tomlinson -
<b>For more information contact:</b> <b>Background papers:</b> <b>List of appendices:</b>	Sandra Mansell 01332 641931 e-mail <a href="mailto:sandra.mansell@derby.gov.uk">sandra.mansell@derby.gov.uk</a> None Appendix 1 – Implications Appendix 2 – Responses following Consultation Exercise Appendix 3 – Proposed Amendments to Conditions

<b>IMPLICATIONS</b>
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**Financial and Value for Money**

- 1.1 Ultimately taking licences elsewhere will mean reduced income on taxi licensing budget. Could see reductions in private hire vehicles, drivers and operators and to a lesser extent hackney carriage drivers and vehicles.
- 1.2 Taxi licensing budget is self-financing and so reductions in income would have to be off-set by reductions in expenditure. Less work means less staff and would certainly involve some reduction in both administration & enforcement staff.

**Legal**

- 2.1 Legal precedent set which allows practice of licensed hackney carriages from one local authority being used for private hire work anywhere in the country. The same principles apply to use of third party vehicles licensed by the Council, but operated by firms other than the one taking a booking.
- 2.2 Public safety is of paramount importance, with the precedent endorsing the lawfulness of imposing appropriate conditions.

**Personnel**

- 3.1 Dependent on the impact this issue had on income levels, the situation could lead to the need to reduce staffing levels in the licensing team.

**Equalities Impact**

- 4.1 Any changes will not significantly impact any particular group.

**Health and Safety**

- 5.1 Public safety implications are set out elsewhere in the report.

**Environmental Sustainability**

- 6.1 None directly arising.

**Property and Asset Management**

- 7.1 None directly arising.

## Risk Management

8.1 None directly arising.

## Corporate objectives and priorities for change

9.1 The information set out in this report supports the corporate priorities to ensure the people in Derby will enjoy **good quality services that meet local needs** and **being safe and feeling safe**.