

Responses following Consultation Exercise				
Response Number	Support	Comment	Capacity of response	Officer Comments
1.	No	<p>It is our contention on behalf of Chads Cars that a licensing authority cannot attach conditions to a private hire operators licence in respect of out of town hackney carriages for the following reasons:</p> <p>Section 55(3) of the Local Government (Miscellaneous Provisions Act) 1976 'The Act' allows a licensing authority to attach conditions to a private hire operators licence if they are considered 'reasonably necessary' and it is an offence under section 46(1)(d) of the Act to 'operate' any vehicle as a private hire vehicle in a controlled district without having a current licence under section 55 of the Act.</p> <p>The definitions within section 80 of the Act define the following: <i>"Operate" means in the course of business to make provision for the invitation or acceptance of bookings for a private hire vehicle.</i> <i>"Private hire vehicle" means a motor vehicle constructed or adapted to seat [fewer than nine passengers], other than a hackney carriage or public service vehicle [or a London cab] [or tramcar], which is provided for hire with the services of a driver for the purpose of carrying passengers.</i> [Highlights by author]</p> <p>As the council are aware 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.</p> <p>In Hawkins v Edwards [1901] 2 KB 169 Alverstone LCJ at paragraph 172 stated: <i>.....The language of s38 of the Town Police Clauses Act 1847, means, I think, that every wheeled carriage which is in fact from time to time used in</i></p>	Licensed Operator	<p>There is no intention to introduce conditions to regulate out of town hackney carriages; the intention is to introduce conditions to ensure the records maintained by operators are brought up to date and are fit for purpose.</p> <p>Operators currently do not have to create, or produce on demand, a record where they place a booking with a vehicle other than one licensed to their firm, whether or not that is with an out of town hackney carriage or other private hire firm.</p> <p>Maintaining records</p>

	<p><i>standing or plying for hire is to be deemed to be a hackney carriage for the whole period during which it is so from time to time used, and the language of the section does not limit the period to the time during which the carriage is in fact used for standing or plying for hire.</i></p> <p>In <i>Benson v Boyce</i> [1997] RTR 226; see paras 13.77 ff the above decision in <i>Hawkins v Edwards</i> that ‘once a vehicle is licenced it remains licensed as such for the duration of the licence or until the licence is surrendered’ was re-affirmed, but in this case in relation to private hire vehicles as opposed to hackney carriages.</p> <p>As a result of the above case law and the construction of the relevant legislation it is clear that a hackney carriage cannot be a private hire vehicle and vice versa. It is also clear that operating a hackney carriage does not fall within the scope of the Act because it is specifically excluded by virtue of the definition of Private Hire Vehicle in section 80 of the Act.</p> <p>It is widely accepted that a hackney carriage licensed under the Town Police Clauses Act 1847 has an inherent right to accept and fulfil bookings and as such does not require a licence to do so. Therefore anyone can in the course of business make the provision for the invitation and acceptance of bookings for a hackney carriage and again this falls outside the scope of the Local Government (Miscellaneous Provisions) Act 1976.</p> <p>The issue of attaching conditions to operator licenses in respect of out of town hackney carriages has been considered by a number of local authorities. In the case of Newcastle City Council the council imposed conditions on private hire operators licenses relating to this matter and were subsequently challenged by way of appeal in the Magistrates Courts. The Court accepted that conditions relating to the use of hackney carriages could not be included on a private hire operators licence.</p> <p>In essence Newcastle could have cross-appealed against the hackney carriage conditions attached to the operator’s licence, but chose not to do so when Blue Line Taxis (Newcastle) Ltd appealed against the telephone number conditions.</p> <p>I have three attached documents in sequence relating to this case: (i) magistrates’ court judgment; (ii) article by my co-director at a2z licensing,</p>		<p>plays a fundamental role in safeguarding public safety and is an effective enforcement tool for both the licensing authority and other law enforcement agencies. The proposal is therefore neither unlawful or irrational nor does it amount to a failure to follow process, so as to attract the prospect of a successful judicial review challenge.</p>
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2.	Yes	<p>I have been made aware that Derby City Council is in consultation regarding The use of Hackney Carriages licensed by other authorities. I am in full support that we need to stop the use of cross boarder taxis, as there is a great risk to public safety. As it is very difficult for other licensing authorities to monitor their licensed vehicles operating in different council authority areas and it is undermining Derby City Councils safety standards which they have set and maintained. I have also heard many stories regarding cross border taxis operating in Derby, where they have been overcharging customers. Taking them the long way round to their destination, plying and many more. So I think there should be changes made to the licensing conditions particularly with operator's licences, as they are the ones employing cross boarder taxis and undermining public safety in Derby City and Derby City council's authority.</p>	<p>Licensed Private Hire Driver (25)</p> <p>Licensed Hackney Carriage Driver (2)</p>	Agree
3	Yes	<p>This email is to confirm that I support the Councils consultation for change of operator licence conditions and also the new proposals</p>	Licensed Private Hire Driver (2)	Agree
4	Yes	<p>I am in favour of the councils proposals for change to the licensing about</p>	Licensed Hackney Carriage	Agree

		cross boarder taxis	Driver (3)	
5	Yes	The Hackney Carriages licensed by other authorities must not be allowed to work in Derby City Council because it is a loss for the council and also for us (who have been licensed by Derby City Council)	Licensed Private Hire Driver	Agree
6	Yes	I support the councils consultation as the changes will make the public safer and derby a safer place to travel in Taxis	Licensed Private Hire Driver	Agree
7.	Yes	I support the council's consultation for changes of operator licence conditions	Licensed Private Hire Driver	Agree
8.	Yes	I most certainly support the council's consultation to make changes to the operator's licence. This is due to the fact that the public in Derby are at risk and these changes need to be made imminently.	Licensed Private Hire Driver	Agree
9	Yes	I totally agree with and fully support the recommendation as outlined in your consultation documentation.	Licensed Private Hire Driver Licensed Hackney Carriage Driver Licensed Operator	Agree
10	Yes	I support the council's consultation to change the current operator's licence conditions. As there is a real safety issue that needs to be addressed ASAP.	Licensed Private Hire Driver	Agree
11	Yes	I feel I must say Derby City Council must, if possible fight this. There is a strong risk attached as there would effectively be no enforcement of the vehicles or drivers which is a great risk to the travelling public. Also if drivers are from other areas they will be relying on using sat navs to find their way. I have already heard of a driver who has been banned in Derby	Licensed Hackney Carriage Driver	Agree

		getting a licence in Gedling. I think at the least there should be a press release informing the public of the dangers this would cause. Also there will inevitably be an increase cost to Derby drivers as more vehicles are licensed elsewhere. This will mean more drivers may be forced to licence elsewhere losing revenue for Derby City Council which will mean loss of jobs in the enforcement section meaning less enforcement and more risk to the public. I have also noticed a Peugeot black Hackney Carriage working for A to B the public will not realise the difference and his meter will be a different tariff. I hope you can fight this and would have my full support.		
12	Yes	I would like to say I have received so many complaints from customers about cross boarder taxis over charging and being rude not knowing where they are going etc. The drivers approved by derby City Council have had to do a knowledge test and an NVQ these drivers in Gedling do a practical an away they go a lot of Derby City Council drivers are not aware of this consultation so it would be better if U wrote to these drivers and let them know. When I rang to find out what was happening in regards to cross boarder taxis I was told they cannot work in Derby full time. Well they are in high numbers so please try and sort this problem out.	Licensed Private Hire Driver	Agree
13	Yes	Please find enclosed Names, Badge Numbers and signatures of Derby City Council's Consultation for changes and new conditions of operator licences	Petition - Licensed Hackney Carriage Driver (22) 11 Licensed Driver Licensed Private Hire Driver (1)	Agree

NOTES:

- 1 invalid response – Related to knowledge test
- 1 invalid response – Numerous and varied links associated to non-related taxi matters.
- 1 additional response relating and commenting on taxi matters