



**TAXI LICENSING AND APPEALS
COMMITTEE
14 March 2012**

ITEM 6

Report of the Strategic Director of
Neighbourhoods

CONSULTATION WITH THE HACKNEY AND PRIVATE HIRE TRADE

SUMMARY

- 1.1 There are many issues that require consultation with the hackney and private hire trade.
- 1.2 For many years consultation has been undertaken via operators, the Derby Hackney Union (DHU), Derby Area Taxi Operators Association (DATOA) and the Licensing Team reception, newspapers etc. In addition meetings between the Licensing Team have been organised for both the operators, DHU and DATOA to attend, which is chaired by the Chair of Taxi Licensing and Appeals Committee.
- 1.3 Concerns have been raised by members about whether consultation is being undertaken correctly, and about the legitimacy of the status of those attending in the role of the trade associations' representatives.
- 1.4 At a trade meeting in September 2011, the Chair of Taxi Licensing and Appeals requested information from both the DHU and DATOA, by 31 October 2011, requiring clarification of the constitutional and membership status of their organisations. The requested information has not been received.

RECOMMENDATION

- 2.1 To consider the information contained in this report and determine whether or not the DHU and/or DATOA should legitimately continue to be recognised as trade associations.

REASONS FOR RECOMMENDATION

- 3.1 To ensure that the Licensing Team are consulting legitimately when required.
- 3.2 To highlight the implications for the Council around the uncertainties in continuing to 'consult' with both associations, the tensions this gives rise to as well as the additional administrative impact on the Licensing Team arising from implementing any change in approach.

SUPPORTING INFORMATION

- 4.1 At a trade meeting in September 2011, it was established that both the DHU and DATOA were not affiliated to any recognised organisations or associations and appear to be operating independently.
- 4.2 In order for an association to be properly constituted, the law requires it to have a formal governance structure that includes the need for constitutionally appointed officers and a list of members. At the trade meeting, the following information was requested from the representatives of the DHU and DATOA by the Chair of Taxi Licensing and Appeals:
- A copy of the associations' constitutions
 - A list of the names and contact details of the Chairperson, Vice Chairperson(s), Secretary and Treasurer of each Association
 - The date the posts are due for re-election
 - Details of subscription fees
 - A copy of the minutes of the last Annual General Meeting
 - The number of subscribing members as at 30 October 2011

The Chair of Taxi Licensing and Appeals asked for this information to be provided by 31 October 2011, which both representatives from DHU and DATOA agreed to do.

- 4.3 To date, DHU has provided a list of members (no. 75 = 17% of total licensed hackney drivers 2011 – 2012), but DATOA has provided none of the requested information.
- 4.4 After the meeting, officers contacted the Chairs of the DHU and DATOA to confirm what information had been requested from them. The Chair of DATOA responded to the request saying:

“If that is the case then Chadd Cars who do they represent? Owner of Chadd Cars has reiterated on many occasions his drivers are self employed, so how does an owner truly represent his drivers when he can't control his drivers from carrying out illegal activities, therefore the information you have requested is discrimination at it's best and until you resolve this issue I am unable to waste any more of my valuable time. Thank you.”

It therefore seems unlikely that as things stand, any of the requested information will be forthcoming from DATOA.

- 4.5 A straw poll survey asking drivers attending the Licensing Team reception identified that 68% were not members of any trade association, 14% were members of the DHU, 14% were members of DATOA and 2% were affiliated to another recognised union (UNITE). The remaining 2% did not wish to participate.

Implications

- 4.6 The current practice when the need for consultation with the hackney carriage trade is required relies on consultation queries being sent to the Chair of each organisation. It works on the basis that they will consult with their membership, so that any responses they provide to the Council can be properly accepted as representing the interests of their trade members whom the organisation represents.
- 4.7 There would also be implications in relation to the conduct of trade meetings, where it would have to be assumed that individuals who previously spoke in a representative capacity can now only be considered to do so in their own individual right.
- 4.8 With the private hire trade, because there are no known trade organisations within the Council's licensing area, the practice has been to write to each individual licence holder when consultation is required i.e. we look for individual responses from all of the trade. For the same reasons, as well as for the views ascribed to the owner of Chadds Cars within the quote in paragraph 4.4, private hire trade licence holders who attend trade meetings have tended to do so in their individual capacity only.
- 4.9 If DHU and/or DATOA are not properly constituted, that calls into question the legitimacy of any future consultation exercises that the Council may have to undertake with the hackney trade, through either organisation. In effect, the Licensing Team would have to adopt an approach similar to that which it applies in consulting with private hire licence holders. That could have a significant impact on the service in relation to administration and finance costs, the latter of which may have to be passed on to the trade at the next fee setting exercise.
- 4.10 It is likely too that the current DHU and/or DATOA officers and membership, in so far as they may informally exist, could perceive the change in practice as undermining either organisation, which is not the intention. The advice received is that there are reasonable grounds to question the legitimacy of undertaking future consultations with organisations that are not properly constituted and that, on the contrary, continuing to consult with them now the Council has cause to suspect there may be issues surrounding their constitutional status does create a vulnerability for the Council. The presumption is of course rebuttable, so that should either organisation provide the details of their constitutional appointments, as requested, that would legitimise the Council revisiting the organisations' status as a legitimate consultative group.

OTHER OPTIONS CONSIDERED

5.1 Not applicable.

This report has been approved by the following officers:

Legal officer	Olu Idowu
Financial officer	-
Human Resources officer	-
Service Director(s)	-
Other(s)	-

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Background papers:	None
List of appendices:	Appendix 1 – Implications

IMPLICATIONS

Financial

1.1 None directly arising from this report.

Legal

2.1 As set out in the report.

Personnel

3.1 None.

Equalities Impact

4.1 Service users must be represented correctly to ensure that any consultation exercises undertaken with them are properly carried out.

Health and Safety

5.1 None.

Carbon commitment

6.1 None.

Value for money

7.1 None.

Corporate objectives and priorities for change

8.1 The proposal supports the corporate priority to ensure the people in Derby will enjoy **good quality services that meet local needs.**