

BABERGH DISTRICT COUNCIL and MID SUFFOLK DISTRICT COUNCIL

From: Licensing Team	Report Number: MLR/17/4
To: MSDC Licensing and Regulatory Committee BDC Licensing and Regulatory Committee	Date of meeting: 1 December 2017 8 December 2017

CROSS-BORDER HIRING OF TAXI AND PRIVATE HIRE VEHICLES

1. Purpose of Report

- 1.1 This report is to advise members of a letter on cross border hiring of taxi and private hire vehicles, received from the Deputy Mayor of Transport for London (TFL).
- 1.2 The TFL has written a letter to the leader of Mid Suffolk District Council to raise concerns about cross-border hiring of taxi and private hire vehicles, a rapidly growing issue for local licensing authorities nationally.

2. Recommendations

- 2.1 That the content of this report and the letter received from the TFL attached as Appendix A be noted.
- 2.2 That members also consider whether they wish to lobby the LGA and the DFT on cross border hiring and other associated taxi and private hire vehicle matters. If members would like to lobby the LGA and the DFT, officers will create a letter in consultation with the Committee Chairs and Vice Chairs.

3. Financial Implications

- 3.1 None directly arising from the matters contained within this report.

4. Legal Implications

- 4.1 There are no legal implications arising directly from this report.

5. Risk Management

- 5.1 There are no risk management issues arising directly from this report.

6. Consultations

- 6.1 There are no consultations arising directly from this report.

7. Equality Analysis

- 7.1 There are no equality analysis impacts arising directly from the matters contained within this report.

8. Shared Service / Partnership Implications

- 8.1 Each Council is responsible for issuing and enforcing licences within its controlled zone.

9. Links to Joint Strategic Plan

- 9.1 Babergh: Shape, influence and provide the leadership to support and facilitate active, healthy and safe communities.
- 9.2 Mid Suffolk: Encourage and support individuals and communities to be self-sufficient, strong, healthy and safe.

10. Key Information

- 10.1 A local licensing authority enforces local conditions and legislation for licences it issues under its controlled zone (district boundary), in particular licensing authorities have the power to suspend, revoke or refuse to renew a licence, it can also oppose additional conditions on licences where appropriate. The authority can also bring criminal charges where appropriate against a suspected offender where breaches of conditions and legislation occur, the police can also take enforcement action.
- 10.2 Under the current legislation licensing officers are unable to undertake enforcement action against drivers, operators and vehicles licensed by another Council, and as such cross-border hiring undertaken within our district are not enforceable by the Council.
- 10.3 Cross border hiring of taxi and private hire vehicles has been a national problem for many years. In 2008 Newcastle CC took Berwick-Upon-Tweed BC to the High Court as Newcastle were troubled by an influx of hackney carriages licensed by Berwick which were being used by Private Hire operators in Newcastle to fulfil their pre-booked hire contracts, Berwick had taken the view that they were unable to refuse to issue licences to hackney carriage proprietors unless either the vehicle or proprietor were unfit, thus the fact that a proprietor live remotely from Berwick and had no intention of plying for hire in Berwick was not considered to be a valid reason for rejecting an application. Newcastle not being the licensing authority for the vehicle had no enforcement powers over those vehicles. Newcastle sought a declaration that it was unlawful for Berwick to grant a hackney carriage to a proprietor where it was not satisfied that the vehicle, if licensed, would ply for hire in the area of Berwick. The judgement handed down stated that a licensing authority may in the proper exercise of its discretion under the said section 37 of the Town Police Clauses Act 1847 refuse to grant a licence in respect of a hackney carriage that is not intended to be used to ply for hire within its area and/or it is intended to be used either entirely or predominately for private hire remotely from the area of that authority.
- 10.4 The Law Commission in 2012 was commissioned to undertake a review of taxi and private hire legislation which both Councils responded to due to the rather dated legislation and the changes in technology, however to date we still await a new dedicated Taxi Bill.

- 10.5 In March 2014 the Government published two amendments (originally there were three, however the third measure was removed at the Lord Committee due to passenger safety concerns that vehicles would be used by unlicensed drivers to do licensed work, though the intention was for partners of private hire vehicles to use the vehicle for family outings without the need to be a licensed driver) to taxi and private hire legislation in England and Wales excluding London and Plymouth (which have their own legislation), these amendments were enacted under the Deregulation Act 2015. One of the amendments allows a licensed private hire operator to sub-contract a private hire booking to another operator who is licensed in a different district or based in London or in Scotland, however there have been no additional enforcement powers given to licensing authorities to enforce these cross-border hirings.
- 10.6 In both Babergh and Mid Suffolk districts we have seen an influx of applicants from outside of their areas in recent years, both Councils have initiated knowledge tests (which includes a district area questions) due to the number of drivers these being used by Ipswich licensed operators for their private hire work which is unlawful.
- 10.7 The TFL has seen an increase of their licensed private hire vehicles being solely used for private hire work outside their controlled area, the TFL states 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 percent of the time outside that local authority area”. The TFL asks for our support in lobbying Government to tackle cross-border hiring as without changes to compliance officers have no powers with which to act.
- 10.8 The LGA have set up a working group with the Minister of State John Hayes MP to discuss cross-border matters and other licensing issues, the LGA long term aim is for a national licensing database and national licensing conditions which can be enforced irrespective of where the driver and vehicle are licensed.

11. Appendices

Title	Location
(a) Letter from the Deputy Mayor for the TFL	Attached

12. Background Documents

- 12.1 Town Police Clauses Act 1847
- 12.2 Local Government (Miscellaneous Provisions Act 1976
- 12.3 Private Hire Vehicles (London) Act 1998
- 12.4 Metropolitan Public Carriage Act 1869
- 12.5 London Hackney Carriage Act 1831
- 12.6 London Cab Act 1896

12.7 London Cab and Stage Carriage Act 1907

12.8 London Cab Act 1968

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