



Leicester
City Council

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FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
Licensing and Public Safety Committee

24 April 2018

Hackney carriage and private hire services - Cross border hiring

Report of the Director of Neighbourhood and Environmental Services

1. Purpose of Report

- 1.1. To inform the Committee of issues associated with cross border hiring and seek support for proposals put forward by Transport for London regarding legislative change to address the problems.

2. Recommendations

- 2.1. It is recommended that the Committee –
- a) Considers the proposals in the report, and
 - b) Requests that the City Mayor and Executive communicate Leicester City Council's support for the proposals made by Transport for London for legislative changes to address the problems associated with cross-border hiring.

3. Summary

- 3.1. Cross border hiring is a significant issue across the country, and is causing concern to licensing authorities and the trade alike.
- 3.2. These issues include matters such as public safety, enforcement, undermining local standards and complaints.
- 3.3. Transport for London has carried out some work on this subject and has made proposals for changes to the legislation and guidance that it believes will address these problems. The proposals include a start or finish requirement for bookings, the introduction of national minimum standards and the introduction of national enforcement powers.

4. Background

- 4.1. Cross border hiring is a term used to describe the practice where hackney carriages or private hire vehicles licensed by one licensing authority work wholly or mostly in another licensing authority area. This practice is lawful, provided that:
- a) For private hire, the driver, vehicle and operator are licensed by the same licensing authority, and the booking is accepted in that authority.
 - b) For hackney carriages, the driver and vehicle are licensed by the same licensing authority. Hackney carriages may only ply for hire in their own authority area.
- 4.2. The effect of this is that drivers and vehicles licensed anywhere in the country may come and work in Leicester, and vice versa.
- 4.3. The practice of cross border hiring:
- limits a licensing authority's ability to carry out effective enforcement, because officers only have the power to control drivers, vehicles and operators licensed by that authority;
 - means that the standards a licensing authority sets for its taxi trade may be undermined if 'out of town' taxis are licensed by authorities with different or lower standards;
 - encourages operator/driver 'migration' to neighbouring and other authorities with cheaper and potentially less demanding licensing regimes;
 - creates difficulties in enforcing traffic regulations because drivers with vehicles licensed as hackneys elsewhere are exempt from bus lane controls in Leicester;
 - may lead to a lack of trust and confidence in the trade from the travelling public;
 - results in a reduction in revenue income to finance development of standards and regulatory activities
 - may lead to a lack of trust and confidence in the City Council's as an effective regulator from the licensed trade
- 4.4. Cross border hiring has become an increasing challenge for licensing authorities to ensure public safety, partly due to advances in technology that enable passengers to book taxis via smartphones.
- 4.5. There have been anecdotal reports for a long time of 'out of town' vehicles and drivers working in Leicester. These reports have included comments that drivers who have had licences refused or revoked by Leicester City Council have subsequently been licensed by neighbouring authorities, and continued to work within the city.
- 4.6. A letter dated 6 March 2018 and signed by almost 100 drivers licensed by Leicester City Council, has been received by the City Mayor. The letter raises concern about 'out of town' drivers and vehicles who are encouraged by certain operators within the city to be licensed by other authorities, that have lower standards and requirements. The drivers who have signed the letter feel it is unfair that 'out of town' drivers and vehicles are allowed to work in Leicester.

5. Issues arising from cross border hiring

Public safety

- 5.1. The licensing authority's primary duty is to protect public safety. This is achieved by setting standards for drivers, vehicles and operators that are appropriate to the particular licensing authority area.
- 5.2. Cross border hiring allows a driver who has had their licence revoked, suspended or refused in one area to be licensed by another authority, which is unlikely to have information on the driver's prior licensing history. Transport for London reports that this is a big issue across the country, with several licensing authorities providing examples of this happening.
- 5.3. A licensing authority may have access to information about licensing issues that other authorities would not know about. This may also extend to additional information the police have discretion to provide in connection with an application for an enhanced criminal record check from the Disclosure and Barring Service.

Enforcement

- 5.4. Licensing authorities have limited powers to enforce against out of town vehicles and drivers. This means drivers operating in different authority areas can effectively choose to pay little attention to enforcement officers. Some of these drivers know this and may choose to compromise public safety by disregarding rules on matters such as vehicle standards, touting, plying for hire, refusing to assist or carry a disabled passenger or guide dog.
- 5.5. It is unlikely that enforcement officers from the home authority will regularly undertake enforcement operations in other areas. This means that enforcement will fall solely to the police, whose resources are already stretched.

Undermining local licensing standards

- 5.6. Cross border hiring weakens the ability of local licensing authorities to set and enforce standards appropriate to their local area. This can undermine the standards that local customers expect.
- 5.7. In Leicester, pre-licensing requirements for drivers include a spoken English assessment, a local 'knowledge' test and an advanced driving test. Drivers licensed elsewhere will not necessarily have been assessed to the same standards. There is concern that drivers will choose to be licensed outside Leicester specifically to avoid these standards, even though they intend to work wholly or predominantly in Leicester. This may compromise public safety.
- 5.8. Pre-licensing standards for vehicles are also a concern. The requirements for hackney carriages in Leicester include wheelchair accessibility, door signs and crests, and black livery. The requirements for private hire vehicles in Leicester include door signs and livery that is not black. Both types of vehicle must be no more than 5 years old when first

licensed, and no more than 11 years old on renewal. Vehicles licensed in other areas may be subject to lower standards and therefore pose a risk to public safety and to air quality.

Complaints

- 5.9. Cross border hiring makes it harder for customers to complain to the appropriate authority in the event of an incident or the failure to meet their expectations. This could lead to a loss of vital intelligence for targeting regulatory activity.
- 5.10. Complaints that relate to a criminal breach may still be pursued by the police and/or the appropriate licensing authority. However, other relatively low level complaints may not be reported to the correct authority and hence not be dealt with.

6. Transport for London's proposals

- 6.1 Transport for London recognizes cross border hiring as a significant issue, and has received numerous reports complaints about its own licensed drivers from licensing authorities around the country. It is also aware of the number of drivers licensed elsewhere working with the Transport for London licensing area. For example, 233 of drivers licensed by Transport for London have home addresses in the City of Leicester.
- 6.2 As a result, Transport for London has consulted with its own Taxi and Private Hire Task and Finish Working Group and engaged with stakeholders and other licensing authorities on the issue of cross border hiring. This work has resulted in Transport for London putting forward a package of legislative changes in response:
 - New primary legislation to introduce a start or finish requirement, meaning that all taxi and private hire journeys must either start or end in the area in which the driver and vehicle (and operator in respect of private hire) are licensed;
 - New primary legislation or statutory guidance from the Department of Transport to introduce national minimum standards, that are high enough to provide a guarantee of customer safety and accessibility; and
 - New primary legislation to introduce national enforcement powers, to enable licensing authority enforcement officers to enforce the national minimum standards in their areas regardless of where the operator, driver and vehicle are licensed, supported by a provision for data sharing.
- 6.3 It is important that all three proposals are progressed, as none will tackle the issues in their entirety without the other supporting proposals.

Start or finish in home area requirement

- 6.4 Under this proposal private hire operators would be able to accept bookings for –
 - Journeys starting and finishing in the home licensing area;
 - Journeys starting in the home licensing area but ending outside it;
 - Journeys starting outside the home licensing area but finishing within it.

- 6.5 Some exemptions would be required to avoid undue burdens on operators, such as those who provide chauffeur services for an entire day, school contract work, etc.
- 6.6 Operators, drivers and vehicle owners who wish to take bookings across multiple licensing areas would need to be licensed in each area. Transitional arrangements could be implemented to minimize the impact on existing operators.
- 6.7 Initial enforcement may benefit from a light touch approach, but after an initial period non-compliance could result in enforcement action.

National minimum standards

- 6.8 National minimum standards would be a way of improving safety in the trade, and would minimize the incentive for drivers, operators and vehicle owners to 'shop around' for more permissive licensing regimes.
- 6.9 Transport for London proposes some minimum standards but recommends that further input is sought from other parties such as the LGA and the Suzy Lamplugh Trust. The proposals are not very different from the standards currently in place in Leicester.
- 6.10 The proposal is for national minimum standards, rather than for mandatory national standards. This would allow licensing authorities to set additional local standards if appropriate, and would avoid the national standards being set low so as not to impose unnecessary mandatory standards in some areas.

National enforcement powers

- 6.11 Enforcement powers for licensing officers are currently limited to those entities licensed by their authority and although they can take action for some criminal activity, this can be time consuming and it does not cover non criminal issues. To safeguard passengers and carry out effective enforcement in their areas, licensing officers should be granted national enforcement powers to check drivers, vehicles and operators licensed by any authority.
- 6.12 Effective enforcement is dependent on the ability of licensing authorities to share intelligence and information. A proposed national database is unlikely to become law, but a voluntary database is being developed by the Local Government Association that will fulfil a similar function, enhancing enforcement and information sharing.

7. Addressing concerns about the proposals

- 7.1 Concerns have been expressed about the increased burden on businesses that the proposals may cause. The application process is already complex and thorough, and it is not anticipated that the proposals will make a significant difference. The local licensing regime is vital to maintaining local standards and ensuring the safety of the travelling public. The proposals will ensure that licensing income is available in the area of operation, ensuring that each licensing authority is adequately resourced to meet the demands placed on it.

- 7.2 The proposal that operators, drivers and vehicle owners be licensed in each licensing area that they wish to work will help to avoid unnecessary consequences for bordering authorities or for businesses that work in a number of areas.
- 7.3 Some parts of the trade are concerned that a start or finish requirement is not flexible enough for their way of operating. The Transport for London argument is that this requirement would make them more accountable to one or more localized licensing authorities. Demand will not fundamentally change, and operators could expand their operations in areas that are currently served by out of town vehicles.
- 7.4 It is acknowledged that there will be a reduction in flexibility of the trade to operate, but this is a necessity in order to safeguard the public. Public safety is the primary concern for all licensing authorities.

8. Other requests for reform

- 8.1 In addition to the above proposals, the Mayor of London has requested changes to address other problems faced in London and elsewhere in England –
- A statutory definition of plying for hire and pre-booked services – to remove ambiguity and retain the distinction between hackney and private hire services;
 - Greater enforcement powers – eg, to seize vehicles without appropriate hire or reward insurance cover, automatic disqualification from driving following conviction for touting or plying for hire, to take DNA samples for touting offences to include unlawfully plying for hire;
 - Fixed penalty notices – to be issued for minor offences such as not wearing a seat belt;
 - Capping the number of private hire drivers and vehicles – this is a particular issue in London regarding congestion.

9. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

9.1. Financial Implications

There are no significant or quantifiable financial implications arising from this report. However, the Council is potentially losing licensing income whilst having to deal with any issues caused by the drivers and their vehicles –

Colin Sharpe, Head of Finance, ext. 37 4081.

9.2. Legal Implications

Taxis and their drivers have to be licensed. Licences are issued under the Town Police Clauses Act 1847 or that Act as amended by the Local Government (Miscellaneous Provisions) Act 1976. In granting a taxi driver's licence, the Local Authority is required to satisfy itself that [the](#) applicant is a fit and proper person.

Leicester City Council's Licensing Authority has in place conditions of fitness with regards to the drivers which must be complied with prior to being licensed and have set standards for the vehicles it licenses.

Under current law, a licensed private hire driver can undertake journeys starting or ending anywhere in England and Wales and operators are allowed to accept jobs where the pick-up and drop off are both outside the operators licensing district.

Drivers, vehicles and operators must be licensed in the same area and operators can only invite and accept bookings within that licensing area.

Under current law, responsibility for enforcement of the taxi and private hire licensing regime lies with the Local Authority that issued the relevant licence. Authorities have powers to suspend, revoke or refuse to renew licences. Licensing Authorities can also bring criminal charges against a suspected offender. However, licensing officers are unable to undertake enforcement action against vehicles, drivers and operators licensed in another area.

Katherine Jamieson – Solicitor, Legal Services

10. Other Implications

OTHER IMPLICATIONS	YES/ NO	Paragraph/References Within the Report
Equal Opportunities	No	
Policy	No	
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights Act	No	
Elderly/People on Low Income	No	
Corporate Parenting	No	
Health Inequalities Impact	No	

11. Background Papers – Local Government Act 1972

11.1. None

12. Consultations

12.1. None

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