

BIRMINGHAM CITY COUNCIL

**REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

15 NOVEMBER 2017
ALL WARDS

**ACTIONS TAKEN BY THE CHAIR OF THE LICENSING
AND PUBLIC PROTECTION COMMITTEE DURING OCTOBER 2017**

1. Summary

- 1.1 This report advises the Committee of an action taken by the Chair under authority from the Licensing and Public Protection Committee, together with an explanation as to why this authority was used.

2. Recommendation

- 2.1 That the report be noted.

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3. Background Information

- 3.1 On 16 March 2007 Section 52 of the Road Safety Act 2006 came into force. This has had the effect of enabling a licensing authority to suspend or revoke a hackney carriage or private hire driver's licence with immediate effect – meaning that the suspension or revocation takes effect immediately once notice of the authority's decision has been given to the driver – where this decision is considered necessary in the interests of public safety.

4. Summary of Action Taken for October 2017

- 4.1 On 9 October 2017 authority was sought to revoke with immediate effect the hackney carriage driver's licence held by driver reference 672. On 9 October 2017 an allegation was received from the West Midlands Police: driver 672 was alleged to have touched a female passenger in an inappropriate manner.
- 4.2 The interests of public safety being considered paramount, an authorisation of the Director of Regulation and Enforcement, acting in consultation with the Chair, was obtained and on 10 October 2017 driver 672 was contacted advising that his hackney carriage driver's licence was revoked with immediate effect, in accordance with Sections 61(1)(b) and 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976. Driver 672 has returned his badge and vehicle identification plate to the Licensing Office.

5. Cross Border Taxi and Private Hire Issues

- 5.1 Section 11 of the Deregulation Act 2015, entitled 'Private Hire Vehicles – Sub Contracting', was enacted in October 2015. It permits a private hire operator in a 'controlled district', e.g. Birmingham, to sub contract a booking from a passenger to any other private hire operator in another controlled district e.g. Wolverhampton, Sandwell, or anywhere else in the country. The taxi and private hire trade responded to this Act by opening offices in more than one local authority. A number of Birmingham operators have opened offices in other local authorities' controlled districts. This enables them to send drivers and vehicles that have not been licensed by Birmingham to jobs booked through their Birmingham office.
- 5.2 A high percentage of private hire drivers working in Birmingham are not licensed by this city. At weekends when our enforcement officers have carried out stop-checks up to 50% of vehicles they stop are licensed elsewhere. Birmingham licensed drivers have reported to us the tension that this can create between them and drivers licensed by other local authorities. It also undermines our ability to impose standards on our drivers or vehicles when they have the option of obtaining a licence in another authority whilst still continuing to work in Birmingham. It also inhibits the ability of Birmingham licensing officers to enforce licence contraventions against drivers and vehicles that we have not licensed.

- 5.3 The practice is not illegal, but our concerns are shared by some other local authorities. In recognition of our serious public safety concerns that the practice lends itself to and in the light of concerns raised by the taxi and private hire trade in Birmingham, your officers invited the seven West Midlands Licensing Authority Chairs and their corresponding Heads of Service to a meeting in Birmingham on 24th July 2017. At that meeting there was a general consensus that cross border hire is problematic and that one of the factors that encourages drivers to obtain licences from other authorities is that we all work to different sets of conditions and have different licence application processes. The meeting was attended by all authorities apart from Walsall.
- 5.4 The group met again on 21st September 2017 and agreed on the wording of a letter to The Rt. Hon. John Hayes CBE MP, Minister of State for Transport Legislation and Maritime, with specific responsibility for taxi and private hire licensing, to raise our shared concerns about the Deregulation Act. A copy of that letter is attached as an Appendix to this report. The group has also agreed to sign a Memorandum of Understanding (MOU) to allow our enforcement and compliance officers to work in each other's areas to carry out compliance checks on the vehicles and drivers that they have licensed. We are obtaining legal advice on the terms of the MOU before it is signed.
- 5.5 Solihull has carried out a benchmarking exercise that has identified some of the differences between authorities in terms of licence conditions. A sub-group of officers are going to start work on identifying opportunities for us to adopt common standards and processes to reduce the demand for drivers to move around the West Midlands.
6. Implications for Resources
- 6.1 No specific implications have been identified, however, drivers retain the right to appeal through a Magistrates' Court, which may result in the imposition of costs either to or against the City Council.
7. Implications for Policy Priorities
- 7.1 The contents of the report contribute to the City Council's published policy priority of improving the standards of licensed vehicles, people and premises in the City.
8. Implications for Equality and Diversity
- 8.1 The actions identified in this report were taken in accordance with the Regulatory Services enforcement policy, which ensures that equality issues have been addressed.

ACTING DIRECTOR OF REGULATION AND ENFORCEMENT



Councillor Barbara Dring **APPENDIX**
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Our Ref: CN/RW1235

31st October 2017

The Rt. Hon. John Hayes CBE MP
Minister of State for Transport Legislation and Maritime

House of Commons
London
SW1A 0AA

Dear Mr Hayes

Cross-Border Taxi and Private Hire Matters of Concern

We, the undersigned, represent the Licensing Committees of six local authorities in the West Midlands, namely Birmingham, Coventry, Dudley, Sandwell, Solihull and Walsall. Wolverhampton has indicated that it will write to you separately.

We write to you in your capacity as the Government Minister with responsibility for taxi policy to highlight our concerns about the impact that the Deregulation Act 2015 is having on the ability of local authorities to ensure public safety.

The Deregulation Act 2015 has given private hire drivers the ability to work across local authority boundaries. We are seeing widespread cross border issues with drivers frequently working in local authorities that have not granted their licence. This not only creates feelings of resentment between drivers, but it raises questions about how local authorities can enforce licensing conditions that they have not imposed against drivers that they have not licensed.

Night Time Economies (NTEs) naturally attract taxis and private hire vehicles from other areas, but the Deregulation Act has legitimised the practice to the extent that in Birmingham, for example, almost 50% of the private hire vehicles at weekends are not licensed by that authority and are therefore not within the control of that authority. Such authorities are faced with the cost of managing vehicles for which they have received no licence fees, imposing a disproportionate burden on them.

The ability of drivers to work in local authorities that have not licensed them has highlighted more than ever the fact that each authority has different rules around taxi and private hire licensing with different conditions applicable to their licences and different application processes. This encourages drivers to seek out authorities that they perceive to be more lenient or that are able to process applications more quickly, but in so doing it undermines

each authority's own attempts to protect their own citizens. In the West Midlands we are addressing this by trying to harmonise our conditions and requirements to discourage this cross-border movement of drivers.

We are also proposing to share the responsibility for drivers and vehicles that we have licensed who work outside our respective authorities by sending officers to those authorities to carry out compliance checks. However, these steps would be unnecessary if it were not for the problems created by the Deregulation Act.

Whilst the harmonisation of standards in the West Midlands is desirable, it will not eradicate the movement of drivers who will still seek licences from even further afield if other authorities' conditions are less onerous or if other authorities licensing processes are faster, which will undermine our efforts to protect public safety. For instance, if authorities have different policies on whether to license drivers with the same criminal record a driver might be refused a licence by local Authority A, to be granted a Licence by Local Authority B, but still work in Authority A's area. We have examples of drivers with convictions for violence and sexual offences who have been refused a licence by one authority and yet another authority has granted them a licence.

We believe that the Government should introduce national guidance for Licensing Authorities which sets out the standards for drivers, vehicles and operators. This should also be used as an opportunity to update licensing legislation which does not adequately deal with modern communications technology that is widely used by taxi and private hire firms.

Daniel Zeichner, MP for Cambridge, is drafting a Private Members' Bill, to be given its Second Reading on 2nd February 2018 on this subject, entitled The Licensing of Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Bill. We have offered him our support.

We are encouraged to note that you have set up a working group to consider these issues over the autumn. If we can assist you by contributing to that group we would greatly appreciate the opportunity, but if you are not taking face to face evidence we ask that you take this letter into account as a demonstration of the harm that cross border sub-contracting is causing. Your reply can be sent to Christopher Neville, the Head of Licensing at Birmingham City Council, who will co-ordinate between the five other local authorities on their behalf. His email address is chris.neville@birmingham.gov.uk.

Yours sincerely



Councillor Barbara Dring, Chair of Licensing and Public Protection Committee, Birmingham City Council, on behalf of:

Councillor Jayne Innes, Cabinet Member for City Services, Coventry City Council
Councillor Alan Hopwood, Chairman of Dudley MBC Taxi Committee
Councillor Bob Piper, Chair of Sandwell MBC Licensing Committee
Councillor Peter C.M. Hogarth MBE, Chairman of Licensing Committee, Solihull MBC
Councillor Shaun Fitzpatrick, Chair of Licensing and Safety Committee, Walsall MBC

Copied to:

The Rt Hon Chris Grayling MP, Secretary of State for Transport
Daniel Zeichner MP
Councillor Simon Blackburn, Chair, Safer & Stronger Communities Board,
Local Government Association

Birmingham MPs:

Andrew Mitchell - Sutton Coldfield
Preet Gill - Edgbaston
Jack Dromey - Erdington
Jess Phillips - Yardley
Khalid Mahmood - Perry Barr
Liam Byrne - Hodge Hill
Richard Burden - Northfield
Mr Roger Godsiff - Hall Green
Shabana Mahmood - Ladywood
Steve McCabe - Selly Oak

Coventry MPs:

Coleen Margaret Fletcher – Coventry North East
Geoffrey Robinson – Coventry North West
James Cunningham – Coventry South

Dudley MPs:

Ian Austin – Dudley North
Mike Wood – Dudley South
Margot James - Stourbridge

Sandwell MPs:

[Rt Hon John Spellar](#) - Warley
[Tom Watson](#) - West Bromwich East
[Adrian Bailey](#) - West Bromwich West
[James Morris](#) - Halesowen and Rowley Regis

Solihull MPs:

Julian Knight - Solihull
Caroline Spelman - Meriden

Walsall MPs:

Eddie Hughes – Walsall North
Valerie Vaz – Walsall South
Wendy Morton – Aldridge and Brownhills