

**Report of** Taxi & Private Hire Licensing Manager

**Report to** Licensing Committee

**Date:** 28 January 2020

**Subject:** Taxi & Private Hire Licensing – Proposed working group on private hire operators, ride hailing apps and cross border working

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

### Summary of main issues

- 1 This report presents to committee members the proposed arrangements for a working group, led by members of the Licensing Committee, on private hire operator conditions, to cover issues such as ride hailing smartphone apps; kiosks, and cross border working.
- 2 The resulting recommendations would be discussed with neighbouring authorities and consulted upon before any new policies and conditions, or practical arrangements would be developed.

### Recommendations

1. That committee members note the purpose and content of the information in this report.
2. That more than three committee members make themselves available for working group meetings, and to consider written and other information.

## **1 Purpose of this report**

- 1.1 To seek committee members' input to a working group on private hire operators, ride hailing apps and cross border working.
- 1.2 To share an outline for the terms of reference for a working group, identifying the key issues, options and implications which need to be considered, and the different groups of stakeholders or advisers who can provide valuable input to the working group.

## **2 Background information**

- 2.1 Committee members will be aware that the UK taxi and private hire industry is rapidly changing in the UK, although much taxi and private hire law has changed little since the 1970s. In order to continue to keep the travelling public safe, the council's policies and conditions also need to keep pace with new developments, particularly the rise of cross border working (drivers and vehicles licensed in one area and working predominantly in another), the growth in use of smartphone apps enabling customers to book and pay for journeys. The council has a plan to review and consult on each of the specific policies and conditions to make sure they remain up to date and effective.
- 2.2 At the December Licensing Committee, members indicated their preference for progressing a review of private hire operators, ride hailing apps and cross border working, with a view to developing new policies and enforcement or other supporting and compliance arrangements.
- 2.3 The legal basis for licensing private hire operators is included in sections 55 and 56 of the Local Government (Miscellaneous Provisions) Act 1976. The most recent guidance from the Department of Transport in 2019 included some recommendations for licensing of operators. The key requirements remain comparatively unchanged:
  - A private hire operator must be a fit and proper person to hold a licence;
  - The private hire vehicle, private hire driver and private hire operator must all be licenced by the same licensing authority;
  - A hackney carriage must be booked as a private hire vehicle for journeys starting outside of its licensing area.

In 2015, the Deregulation Act amended section 55 to permit to sub-contracting of a booking from one operator to another.

## **3 Main issues**

- 3.1 The council has had the current policy for private hire operators since 2014, attached at **Appendix 1**. However, for a number of related and overlapping reasons, the policy and supporting arrangements are in need of discussion and revision.
- An increase in the scale of private hire operators who are licenced in more than one licensing authority and operate vehicles across local authority licensing areas;
  - The rise in use of smartphone apps and kiosks;
  - The growth in observed cross border working (regular working outside a licence area);
  - The difference between licensing authority conditions, enforcement capacity and licensing fees, which encourages ‘licence shopping’;
  - Limited availability of wheelchair accessible vehicles in the private hire fleet; and
  - Concern about the downward pressure on some fares, driver wages, and implications for passenger safety;
- 3.2 Committee members have previously expressed concern about these issues, and requested a working group discussion and review of private hire operator conditions for this authority, and among neighbouring authorities. In addition, there are a limited number of recommendations relating to operators in the Department for Transport Statutory Guidance (2019), which may also be included in the review. It may also be useful to discuss other matters such as executive private hire operators, and implications of climate emergency and the Leeds Clean Air Zone for operators.

### **Increase in private hire operators working across local authorities**

- 3.3 Over the past several years, there has been a significant increase in the number of vehicles and drivers working for operators who are licensed across more than one licensing authority. The largest operator has grown to almost 1500 vehicles and more than 1650 drivers over the past five years since it was first licensed in Leeds, and has also grown significantly in the majority of the neighbouring authorities, and those vehicles are visible on the operator’s app for passengers wishing to travel in Leeds.
- 3.4 The overall numbers of vehicles and drivers in Leeds has not changed significantly in the majority of the large or medium sized operators. The exception is in large app-based operators, one of which has approximately doubled in size over the past three years. This indicates that in cities such as Leeds, the most likely areas of growth are likely to be in operators who work across local authority boundaries and utilise new technology. There

are a number of other large/international ride hailing firms who may seek to be licensed to operate in Leeds.

3.5 The key feature of these types of operators for licensing authorities is that the operators may not be committed to the local nature of licensing as set out in the Local Government Miscellaneous Provisions Act 1976, and this feature is fundamentally changing the nature of competition in, and regulation of, the industry. These types of operators are prepared to locate in one licensing authority and operate across a region, or locate in more than one licensing authority.

3.6 The working group may wish to consider evidence to include specific conditions for private hire operators who are licensed both in Leeds and in other authorities, or large scale private hire operators:

- Car parking provision, whether on the operator's base or at alternative location;
- Driver administration and management, including identity management;
- Complaint handling procedures and arrangements;
- Measures to track or cap drivers' working hours;
- Use of drivers who have previously been refused or revoked in Leeds;
- Use of vehicles which do not meet Leeds licensing standard; and
- Restriction of number of new private hire vehicle or driver licences, either in total or by operator, which following Glasgow City Council in April 2019, is not within scope of operator conditions, but worth discussing in a working group.

### **The rise in use of smartphone apps**

3.7 Linked to the growth of new ride hailing firms over the past decade, it is now commonplace for many passengers to book journeys using an app on a smartphone, rather than a face to face visit or phone call to a private hire office. The apps usually do not distinguish between a locally licensed driver and a driver who is licensed by a different authority, but not in the area where the booking is being made.

3.8 The working group may wish to consider evidence to include specific conditions for the use of smartphone apps for private hire operators:

- Private hire bookings;
- Requiring 'geo-fencing' of certain key locations to prevent traffic congestion and plying for hire;

- Regulation of private hire booking kiosks, such as iKabbi;
- Regulation of the app itself – use/misuse;
- Regulation of driver hours on the app; and
- Ways to give customers using the app to express a preference for a locally trained and licensed driver.

### **The growth in observed cross border working**

- 3.9 As has been previously discussed at Licensing Committee, there has been a marked growth in observed and recorded cross border working in Leeds. The council now has recorded details of hundreds of vehicles which are licensed in neighbouring authorities, and recorded as being driven in Leeds.
- 3.10 These vehicles are not breaking any laws or regulations. However, both Leeds City Council and the ‘home’ licensing authority have a responsibility towards the passengers using those vehicles in Leeds.
- 3.11 The working group may wish to consider whether it is possible or to seek evidence to include specific conditions to respond to the growth in cross border working, such as:
- Placing a cap on the number of private hire drivers and vehicles in individual authorities and in the region (subject to considering this from a legal point);
  - Placing restrictions on the advertising of and incentives to work at cross border events;
  - Ways to give customers using apps to express a preference for a locally trained and licensed driver;

### **The difference between licensing authority conditions, enforcement capacity and licensing fees, which encourages ‘licence shopping’**

- 3.12 There are limitations on the powers of licensing authorities to impose ‘intended use’ conditions on operators, drivers and vehicles. As has been previously discussed at Licensing Committee, there has been a project across the five West Yorkshire authorities and City of York to address the risks posed by regular cross border working and licence shopping (i.e. choosing to licence in a different authority).
- 3.13 However, the working group may wish to consider evidence to include further areas of licensing to respond to and reduce licence shopping and involve representatives from other West Yorkshire and York authorities:

- Including operator conditions, operator training and DBS checking, in the harmonisation work programme;
- Requiring a minimum standard of enforcement capacity in licensing teams (e.g. one enforcement officer per 500 vehicles, which is not within scope of operator conditions, but worth discussing in a working group); and
- Requiring a minimum standard of enforcement casework in licensing teams (in terms of hours spent on taxi and private hire licensing, division between on street and complaint investigation, which is not within scope of operator conditions, but worth discussing in a working group);

### **Limited availability of wheelchair accessible vehicles in the private hire fleet**

3.14 There is limited availability in the private hire fleet of wheelchair accessible vehicles. Table 1 shows how, while 50% of the hackney carriage fleet is wheelchair accessible, only 2% of the private hire operator fleet is wheelchair accessible. A review of the operator conditions should consider ways to increase provision of wheelchair accessible private hire vehicles.

**Table 1: Summary of Wheelchair Accessible Vehicles**

	<b>Contract Vehicle</b>	<b>Hackney Carriage</b>	<b>Private Hire Executive</b>	<b>Private Hire Novelty</b>	<b>Private Hire Vehicle</b>	<b>Grand Total</b>
WAV	11	266			76	353
Total	27	534	22	2	4476	5061
% WAV	41%	50%	0%	0%	2%	7%

3.15 The working group may wish to consider evidence to include further areas of licensing to address the shortfall in wheelchair accessible vehicles:

- Including a minimum percentage of the fleet for each operator to be composed of wheelchair accessible vehicles by a stated date;
- Offering reduced operator fees to operators whose wheelchair accessible vehicles exceed a stated percentage of the fleet;

### **Concern about the downward pressure on some fares, driver wages, and implications for passenger safety**

3.16 The committee has heard some concerns on the downward pressure on driver take home pay as a result of the competition from new entrants, app-based operators and cross border operators. The council has heard that

some drivers are regularly earning below the minimum wage level, once deductions are made. In the UK, all hackney carriage drivers and the majority of private hire drivers are currently classified as self-employed (although there was a legal case in January 2019 when three Addison Lee drivers were found at an Employment Appeal Tribunal to be workers, not self-employed contractors, and there is a pending Supreme Court judgment on the employment status of one app-based operator's drivers).

3.17 While drivers are likely to continue to work a range of hours, and work patterns, there is a potential link between lower hourly pay for drivers and reduced passenger safety. Drivers may be tempted to work longer hours than is safe to work, unless restricted from doing so by their operator, may be tempted to work without bookings and ply for hire.

3.18 The working group may wish to consider evidence to encourage operators to ensure that they are able to offer drivers enough hours to exceed minimum wage/living wage levels, that hours are restricted to reduce risk to passengers and road users, and do not increase their numbers of drivers and vehicles so rapidly that they are unable to secure work for their drivers:

- Regulation of driver hours;
- Reports on typical driver take home pay or commitment to minimum or living wage;

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

4.1.1 The working group would have a remit to hear views from stakeholders and suggest policy changes. It is very likely that the council would plan to consult on any proposed policies, financial or practical changes.

4.1.2 The council would also plan to discuss with the other authorities in the West Yorkshire & York group to see if the Leeds recommendations could be used to help set common minimum standards for operators. This could also involve consultation or engagement in those authorities, depending on the degree of change from the current policies and arrangements.

### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 Equality and Cohesion Screening Assessments are carried out on the policies agreed at Licensing Committee and policy changes made under the scheme of sub delegation. An Equality Impact Assessment Screening report will be undertaken where the proposed policies are considered.

### **4.3 Council policies and City Priorities**

4.3.1 Taxi & Private Hire Licensing policies contribute to the following aims:

## **Best Council Plan**

### **Towards being an Enterprising Council**

#### **Our Ambition and Approach**

**Our Ambition** is for Leeds to be the best city and Leeds City Council to be the best council in the UK – fair, open and welcoming with an economy that is both prosperous and sustainable so all our communities are successful.

**Our Approach** is to adopt a new leadership style of civic enterprise, where the council becomes more enterprising, business and partners become more civic, and citizens become more actively engaged in the work of the city.

#### **Our Best Council Outcomes**

Make it easier for people to do business with us.

#### **Our Best Council Objectives**

Promoting sustainable and inclusive economic growth – Improving the economic wellbeing of local people and businesses. With a focus on:

- Helping people into jobs;
- Boosting the local economy; and
- Generating income for the council.

Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city. With a focus on;

- Getting services right first time; and
- Improving customer satisfaction.

4.3.2 Taxi & Private Hire Licensing policies contribute to the following priorities:

- Reduce crime levels and their impact across Leeds;
- Effectively tackle and reduce anti-social behaviour in communities;
- Safeguarding children and adults at risk:

Leeds City Council has both a moral and legal duty of care for both children and adults at risk across all of its services. This cannot be achieved by any single service or agency. Safeguarding is ultimately the responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or adults at risk.

## **4.4 Resources and value for money**

4.4.1 The Taxi and Private Hire Licensing service is currently cost neutral to the council and by virtue of the Local Government (Miscellaneous Provisions) Act, 1976, raises its own revenue by setting fees to meet the cost of issuing and administering licences.

4.4.2 These arrangements mean that if proposals are associated with additional costs, they will be funded via licence fees and will not place additional



pressure on the council's budget. It is likely that the working group will generate recommendations for new policies and practical arrangements, each of which will need to be costed.

#### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 If there are possible legal implications arising from any review of private hire operator policies and arrangements, they will be considered.

#### **4.6 Risk Management**

4.6.1 The council has identified the actions of drivers and vehicles licensed in other licensing authorities as a potential risk to passengers in Leeds. In particular, the current risks identify as a potential risk to passengers in Leeds posed by drivers and vehicles working away from their home licensing authority whose licence may be suspended or whose vehicle may not be in a roadworthy condition.

4.6.2 The policy harmonisation work with the West Yorkshire and York authorities has focused on six areas to address the most important risks:

CCTV in vehicles

Convictions/suitability

Cross-border enforcement

Driver training

Information sharing between authorities

Vehicle conditions

4.6.3 The taxi and private hire licensing team will conduct a risk workshop with the council's intelligence team to review existing risks and actions and identify any new risks.

### **5 Conclusions**

5.1 The report has outlined the background to the council establishing a working group to review private hire operator conditions, ride hailing apps, kiosks and cross border working. The report has summarised the key features of the current arrangements, and indicated areas where evidence might be sought to review and update the relevant policies, in Leeds, and for consideration by neighbouring authorities.

5.2 The report proposes arrangements for a working group, including composition of the group and the format of recommendations.

- 5.3 The recommended policies and arrangements will then be discussed with neighbouring authorities as part of policy harmonisation and consultation will also take place.

## **6 Recommendations**

- 6.1 That committee members note the purpose and content of the information in this report.
- 6.2 That more than three committee members make themselves available for working group meetings and to consider written and other information.

## **7 Background documents**

Leeds City Council Licensing Committee Report on Cross Border working and Responses, November 2019:

<https://democracy.leeds.gov.uk/documents/s196438/Taxi%20and%20Private%20Hire%20Licensing%20-%20Cross-Border%20Working%20and%20Responses.pdf>

Department of Transport: Taxi and Private Hire Vehicle Licensing: Protecting Users, Statutory Guidance for Licensing Authorities, February 2019:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/778276/taxi-phv-licensing-protecting-users-draft-stat-guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/778276/taxi-phv-licensing-protecting-users-draft-stat-guidance.pdf)

Department for Transport Taxi and Private Hire Vehicle Statistics, England: 2018

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/751202/taxi-and-phv-england-2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/751202/taxi-and-phv-england-2018.pdf)

Task and Finish Group for DfT, Taxi and Private Hire Vehicle Licensing: Steps towards a safer and more robust system, September 2018:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/784216/taxi-phv-licensing-protecting-users-draft-stat-guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/784216/taxi-phv-licensing-protecting-users-draft-stat-guidance.pdf)

### **Appendix 1 Current Leeds City Council Private Hire Operator Conditions**

### **Appendix 2 Current Leeds City Council Executive Private Hire Operator Conditions**

### **Appendix 3 Working group for Private Hire Operators, ride hailing apps and cross border working terms of reference**