
REPORT TO:	ENVIRONMENTAL AND DEVELOPMENT SERVICE COMMITTEE	AGENDA ITEM: 6
DATE OF MEETING:	5 th MARCH 2020	CATEGORY: DELEGATED/ RECOMMENDED
REPORT FROM:	CHIEF EXECUTIVE	OPEN/EXEMPT PARAGRAPH NO:
MEMBERS' CONTACT POINT:	EMMA McHUGH 01283 595 716 emma.mchugh@south-derbys.gov.uk	DOC:
SUBJECT:	PRIVATE HIRE CROSS BORDER ENFORCEMENT OPERATIONAL PROTOCOL	REF:
WARD(S) AFFECTED:	ALL	TERMS OF REFERENCE:

1. Recommendations

- 1.1 That the Cross Border Enforcement Operational Protocol is approved and Officers are authorised to take the necessary steps to finalise the Protocol.
- 1.2 That delegation of the specified private hire licensing enforcement functions to North West Leicestershire District Council and East Staffordshire Borough Council is approved in line with the above Protocol
- 1.3 That reciprocal delegation of specified private hire licensing enforcement functions from North West Leicestershire District Council and East Staffordshire Borough Council is approved in line with the above Protocol.

2. Purpose of Report

- 2.1 To provide Members with the necessary information to be able to give full consideration to the recommendations contained in paragraph 1 of this report.

3. Detail

- 3.1 In October 2010, in the case of Stockton on Tees Borough Council v Fidler, Hussain and Zamanian (2010 EWHC 2430), the High Court ruled that a hackney carriage and driver licensed in one controlled district may work in another controlled district. They are able to undertake private hire work allocated to the driver through a licensed operator, without the driver, vehicle or operator being licensed by the Local Authority for that controlled district.
- 3.2 In addition, following the introduction of the Deregulation Act 2015 in October 2015, private hire operators can sub-contract to licensed operators outside of the controlled area within which they were licensed. As a result of the ruling and the

changes to legislation, it has become increasingly difficult to regulate drivers and vehicles operating within South Derbyshire licensed by other authorities, in particular North West Leicestershire District Council and East Staffordshire Borough Council.

- 3.3 Under the Local Government (Miscellaneous Provisions) Act 1976 (“the Act”), enforcement action against private hire vehicles and drivers can only be undertaken by authorised officers of the licensing authority who issued the licence. Therefore, the Council is unable to take any enforcement action against vehicles and drivers working within our District that are licensed by other Authorities.
- 3.4 During enforcement initiatives, Officers will stop out of district vehicles and drivers to carry out checks but if issues are found, Officers have no authority to take any action against the vehicle or driver at the time i.e. suspension of their licence. Any issues have to be reported to the issuing Authority for any action to be taken. In order to address this issue and to try and improve driver and vehicle standards, Officers have worked with the other two Licensing Authorities to find a way to work in partnership and conduct enforcement across licensing boundaries.
- 3.6 Section 101 of the Local Government Act 1972 permits the Council to make arrangements to delegate the exercise of its function of private hire licensing enforcement to another Local Authority whilst still exercising the function itself. The other Local Authority would then deal with the enforcement function as if it were their own. That Authority can put appropriate delegations in place and appoint authorised officer’s in its own organisation to undertake enforcement against South Derbyshire licensed vehicles and drivers operating in that Authority’s area. In addition, North West Leicestershire District Council and East Staffordshire Borough Council are in the process of obtaining the necessary authorisations for South Derbyshire Officers to take enforcement action against their vehicles and drivers operating in South Derbyshire.
- 3.7 In order to ensure this transfer of function works well at an operational level, a Cross Border Enforcement Operational Protocol has been drafted which details how the cross border enforcement will work and how the information gathered through enforcement would be shared by the Authorities. A copy of the protocol is attached as **Appendix 1**. If approved, the Protocol will be signed by all three Authorities. The Protocol provides that all authorities listed will, before signing the Protocol, provide written evidence to each other confirming the delegation of the enforcement powers.
- 3.8 The Protocol sets out at Appendix 2 which enforcement powers would be delegated to other licensing authorities. They are limited to the following sections under the Act:
- Section 53(3) – production of driver’s badge/licence for inspection to an authorised officer
 - Section 68 – authorised officer can require a vehicle to be inspected and tested at reasonable times and suspend the vehicle licence if not satisfied as to the vehicles fitness.
 - Section 73 - obstruction of an authorised officer.

The Council will also continue to carry out these enforcement functions. Any decisions which may need to be taken in relation to a licence following any enforcement action above would be passed back to the relevant Authority to be

dealt with. All Committee action will continue to be taken by each respective Authority.

4. Financial Implications

4.1 There are no financial implications to the Council.

5. Corporate Implications

Employment Implications

5.1 None

Legal Implications

5.2 None

Corporate Plan Implications

5.3 These proposals will continue to demonstrate to members of the public that the Council takes the protection of local residents, children, and vulnerable adults from the potential harms of private hire licensing seriously, which contributes to the value of taking pride in our place and striving for excellence in all we do.

Risk Impact

5.4 None

6. Community Impact

Consultation

6.1 Consultation has taken place with East Staffordshire Borough Council and North West Leicestershire District Council.

Equality and Diversity Impact

6.2 None

Social Value Impact

6.3 The proposals will protect all residents in South Derbyshire from the potential harms of private hire licensing.

Environmental Sustainability

6.4 None

7. Background Papers

Local Government (Miscellaneous Provisions) Act 1976