

## CABINET MEETING – 18 JUNE 2019

### EXECUTIVE SUMMARY SHEET – PART I

**Title of Report:**

Cross Border Taxi Licensing Enforcement

**Author(s):**

Executive Director of Neighbourhoods

**Purpose of Report:**

To outline proposals for the Council to enter into arrangements with other local authorities in the north east region in order to facilitate cross border licensing enforcement with regard to hackney carriages and private hire vehicles that are being operated outside of the area of the local authority from which their relevant licences were obtained.

**Description of Decision:**

Cabinet is asked to agree that:

- (1) The Council enters into a Memorandum of Understanding with other local authorities in the north east region in order to facilitate cross border licensing enforcement with regard to hackney carriages and private hire vehicles that are being operated outside of the area of the local authority from which the relevant licences were obtained.
- (2) The form of the Memorandum of Understanding shall be in the form, or substantially in the form, of that set out in Appendix 1 to this report, subject to any amendments required or agreed by the Assistant Director of Law and Governance.
- (3) The Council enters into agreements under section 113 of the Local Government Act 1972 with the other authorities participating in the Cross Border Hackney Carriage and Private Hire Vehicle Authorisation Scheme for (a) the placing at the disposal of the other authorities for the purposes of the Scheme the services of licensing officers employed by the Council; and (b) the acceptance of the services of officers of those other participating authorities on a reciprocal basis.
- (4) The Executive Director of Neighbourhoods be authorised to take all steps necessary to implement the above and be given delegated power to authorise officers made available by other participating authorities to exercise taxi licensing enforcement powers within their respective areas on behalf of this Council.
- (5) Council be asked to agree provisions (1) to (4) above in relation to any matters within the remit of the Scheme and the Memorandum of Understanding that are not functions of the Executive.

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| <b>Is the decision consistent with the Budget/Policy Framework?</b>  | <b>Yes</b>   |
| <b>If not, Council approval is required to change the Budget/Policy Framework.</b>   |  |
| <b>Suggested reason(s) for Decision:</b><br>To enable effective regulation of the taxi trade in the City and throughout the North East region. |  |
| <b>Alternative options to be considered and recommended to be rejected:</b><br>None  |  |
| <b>Impacts analysed;</b>   |  |
| <b>Equality</b> <input checked="" type="checkbox"/>  | <b>Privacy</b> <input checked="" type="checkbox"/> <b>Sustainability</b> <input checked="" type="checkbox"/> <b>Crime and Disorder</b> <input checked="" type="checkbox"/> |
| <b>Is the Decision consistent with the Council's co-operative values? Yes</b>  |  |
| <b>Is this a "Key Decision" as defined in the Constitution?</b>  | <b>Yes</b>   |
| <b>Is it included in the 28 day Notice of Decisions?</b>   | <b>Yes</b>   |

**CROSS BORDER TAXI LICENSING ENFORCEMENT**

**Report of the Executive Director of Neighbourhoods**

**1. Purpose of the Report**

- 1.1 To outline proposals for the Council to enter into arrangements with other local authorities in the north east region in order to facilitate cross border licensing enforcement with regard to hackney carriages and private hire vehicles that are being operated outside of the area of the local authority from which their relevant licences were obtained.

**2. Description of Decision (Recommendations)**

- 2.1 Cabinet is asked to agree that: Cabinet is asked to agree that:
- (1) The Council enters into a Memorandum of Understanding with other local authorities in the north east region in order to facilitate cross border licensing enforcement with regard to hackney carriages and private hire vehicles that are being operated outside of the area of the local authority from which the relevant licences were obtained (the "Cross Border Hackney Carriage and Private Hire Vehicle Authorisation Scheme").
  - (2) The form of the Memorandum of Understanding shall be in the form, or substantially in the form, of that set out in Appendix 1 to this report, subject to any amendments required or agreed by the Assistant Director of Law and Governance.
  - (3) The Council enters into agreements under section 113 of the Local Government Act 1972 with the other authorities participating in the Cross Border Hackney Carriage and Private Hire Vehicle Authorisation Scheme for (a) the placing at the disposal of the other authorities for the purposes of the Scheme the services of licensing officers employed by the Council; and (b) the acceptance of the services of officers of those other participating authorities on a reciprocal basis.
  - (4) The Executive Director of Neighbourhoods be authorised to take all steps necessary to implement the above and be given delegated power to authorise officers from other participating authorities to exercise taxi licensing enforcement powers within their respective areas on behalf of this Council.
  - (5) Council be asked to agree provisions (1) to (4) above in relation to any matters within the remit of the Scheme and the Memorandum of Understanding that are not functions of the Executive.

### **3. Introduction/Background**

- 3.1 The Council, through its Regulatory Committee and delegations to the Executive Director of Neighbourhoods, licenses hackney carriages and their drivers and private hire vehicles and their drivers and operators. The primary aim of this role is to protect the public and promote safety for users. Enforcement of the licensing regime is predominantly an executive function undertaken by officers of the Licensing Section of Housing Services under delegated powers.
- 3.2 Recent national and regional concerns relating to the safeguarding of vulnerable adults and children has led to the publication of proposed statutory guidance for licensing authorities. Whilst this consultation is ongoing it is recognised that licensing authorities will need to review their policies to reflect the emerging responsibilities.
- 3.3 In preparation of these proposed statutory changes and to reflect the significant responsibility the licensing function has in respect of the safeguarding of vulnerable users a review of the Licensing function is being carried out.
- 3.4 The review will consider a variety of elements including mandatory safeguarding training for drivers, a revision of relevant policies including fit and proper person, in addition to updating the application process to enable effective processing and subsequent enforcement.
- 3.5 This report is the first part of this review and aims to update the city's enforcement powers in respect of cross border authority in line the other authorities in the region. Further reports will be submitted following completion of the ongoing review and consultation.
- 3.6 For the purposes of this report hackney carriages and private hire vehicles will be referred to, collectively, as taxis.
- 3.7 The Council's Licensing Officers are empowered, by virtue of the Local Government Act (Miscellaneous Provisions) Act 1976 to inspect and test taxis and from time to time our officers conduct enforcement exercises in order to ensure that our licensed vehicles are being operated in compliance with the law. However, these powers extend only to regulating the activities of taxis and drivers licensed by this Council.
- 3.8 Furthermore, following the introduction of the Deregulation Act 2015, private hire vehicle operators are enabled to sub-contract work to private hire vehicle operators licensed by local authorities other than that from which they obtained their own licence.

- 3.9 Since 2015, local authorities from various parts of England have expressed concerns relating to the increased numbers of taxis licensed by other councils operating in their areas. Such “out of area” vehicles are not subject to any regulatory oversight by officers of the Council in whose area they are being operated.
- 3.10 In order to address this issue the local authorities in the region, including this authority, have been working in partnership through the North East Strategic Licensing Group to arrange enforcement across council boundaries. The Group’s member authorities listed in Appendix 2 have agreed to enter into a memorandum of understanding with regard to authorising officers across the region to undertake enforcement with regard to taxis irrespective of where the relevant licence was obtained. This report proposes that Sunderland City Council also joins this arrangement. The existing memorandum is attached as Appendix 1.
- 3.10 In pursuance of the arrangements, this Council would authorise the taxi licensing officers of the other eleven local authorities in the region to undertake enforcement in the same manner as we delegate powers to our own staff. Then, taxis licensed by this Council could be inspected by council officers of any area in our region within which the vehicle was being used. Similarly, our staff would be authorised by the other local authorities to inspect out of area taxis used in this City.

#### **4. Current Position**

- 4.1 It is proposed that the Council will delegate taxi licensing enforcement powers under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions Act) 1976 to officers similarly authorised under those statutes by the other licensing authorities in the region, listed in Appendix 2, and that we agree that our licensing officers are similarly authorised by our partners.
- 4.2 Officers of another local authority finding a problem with a taxi licensed by this Council will refer the details to our licensing officers. Our officers will deal with the matter in the same way as we would deal with an incident occurring in our area and, if appropriate, refer the matter to our Regulatory Committee.
- 4.3 Should this Council enter this agreement it is possible that our licensed drivers may find themselves subject to inspection whilst working out of area. Our licensing officers will therefore raise awareness of the situation with our licensed trade.

#### **5. Reasons for the Decision**

- 5.1 To enable effective regulation of the taxi trade in the City and throughout the North East region.

## 6. Alternative Options

- 6.1 The alternative option of being the only licensing authority excluded from the regional protocol is not recommended as our taxis would be the only taxis not subject to enforcement action across the whole region outside of this City and therefore potentially attractive to persons wishing to use our vehicles for illegitimate purposes.

## 7. Impact Analysis

- (a) **Equalities** – as part of the ongoing development of the Authorisation Scheme, an equalities impact assessment will be undertaken at each relevant stage. Consideration will be given to ensure that there is no negative impact on those groups with protected characteristics.
- (b) **Privacy Impact Assessment (PIA)** – Officers will comply with all relevant data protection laws and any associated statutes, regulations and guidance.
- (c) **Sustainability** – This proposal is intended to assist responsible businesses.
- (d) **Reduction of Crime and Disorder – Community Cohesion / Social Inclusion** – positive impacts in making the changes to the scheme

## 8. Other Relevant Considerations / Consultations

**Co-operative Values:** - At Annual Council in May 2015, it was resolved that the following statement be included in the Constitution to reflect the values of the “Co-operative Council”.

“Sunderland City Council is a co-operative council and in being so will act ethically in all its actions while adhering to and actively promoting its co-operative values of self-help, self-responsibility, democracy, equality, equity and solidarity. These values will underpin its decision making and actions.”

- 8.1 (i) **Legal implications** – The Assistant Director of Law and Governance has advised on this proposal.
- (ii) **Financial implications** – There are no additional financial implications arising as a result of this report. Each participating local authority is required to meet its own costs. Any additional requirements can be met from within the existing service provision.
- (iii) **The Public / External Bodies – The taxi trade** have been consulted and are in favour of the cross border approach.

## 10. List of Appendices

- 10.1 Appendix 1 – Memorandum of Understanding.  
Appendix 2 – List of participating authorities.

# Appendix 1

# Memorandum of Understanding

Between

The local authorities of Middlesbrough, Stockton on Tees, Redcar & Cleveland,  
Darlington, Hartlepool, Durham, North Tyneside, South Tyneside,  
Northumberland, Newcastle upon Tyne and Gateshead

For the purpose of

## A Cross Border Hackney Carriage and Private Hire Vehicle Authorisation Scheme

- 1.0 Definitions.
- 1.1 **'Taxis'** refers to both hackney carriages and private hire vehicles
- 1.2 **'Participating enforcement local authorities'**. These are the local authorities of Middlesbrough, Stockton on Tees, Redcar & Cleveland, Darlington, Hartlepool, Durham, North Tyneside, South Tyneside, Northumberland and Gateshead
- 1.3 **'Cross Border Taxi and Private Hire Vehicle Authorisation Scheme is 'The Authorisation Scheme'** subject to the principles set out in this Memo of Understanding which permits a participating enforcement local authority to inspect taxis licensed by another participating enforcement local authority but only within the geographic area of the home licensing local authority.
- 1.4 **'Home licensing local authority'**. Is the local authority responsible for licensing the taxi or driver.
- 1.5 **'Designated contact address'**. Is the email address that each local authority has designated to receive communications about drivers, vehicles, inspections and interviews.
- 1.6 **'Lead Officer and Deputy'**. Are the named officers designated by each participating local authority to be the lead contact and deputy for communications about the operation of the scheme.
- 1.7 **'The Next Working Day'** means the next day that the home local authority licensing office is open for business, or the day after that, if circumstances prevent a more speedy communication.



- 1.8. **'Working Group'** is the group attended by the lead officer or deputy from each participating local authority to oversee the scheme
- 1.9. **'Delegated Power'** means the discharge of a function under the Local Government Act 1972, the Local Government (Misc Provisions) Act 1976 and the Town Police Clauses Act 1847 and any related legislation for the purpose of carrying out enforcement on Hackney Carriages and Private Hire Vehicles, Drivers and Operators licensed by a participating local authority within the terms of this Memo of Understanding.
- 2.0. The primary purpose of The Authorisation Scheme is to focus on immediate public safety risks and potentially significant offences. Inspections and interviews will be guided by the primary purpose.
- 2.1. Enforcement officers will deal with taxis, interviews and inspections for vehicles and drivers who are licensed by another participating enforcement local authority in the same way they would deal with taxis and drivers licensed by their home licensing local authority
- 2.2. Each participating enforcement local authority is responsible for identifying competent enforcement officers to be authorised by other participating enforcement local authorities. The home licensing local authority which employs the enforcement officers and related officers will retain responsible for their conduct, behaviour and employment terms and conditions.
- 2.3. The Authorisation Scheme places no obligation on a participating enforcement local authority to inspect taxis or interview drivers licensed by other participating enforcement local authorities. The decision to inspect is voluntary. Financial payments between participating enforcement local authorities are not required
- 2.4. In all cases, enforcement officers are only permitted to inspect taxis within the boundary of their own home licensing local authority.
- 2.5. Interventions resulting from a vehicle inspection or interview should be notified to the home licensing local authority the next working day by email to include; time, date, registration number, driver name and identification; evidence gathered, action taken and why and enforcement officer name and contact details.
- 2.6. Details of individual inspections and interviews involving no action or minimal action should still be notified to the home licensing local authority for evidence gathering.
- 2.7. Each participating enforcement local authority must collate evidence of inspections and communications to be considered by the Working Group.
- 2.8. The scheme will be reviewed by the Working Group overseeing the Scheme after 6 months from the commencement date.
- 2.9. Each participating enforcement local authority will designate a gcsx email address for communications about interviews and inspections.

- 3.0. Each participating enforcement local authority will designate a Lead Officer and Deputy for communication about the scheme
- 3.1. Enforcement officers are permitted to issue suspension notices for immediate public safety risks provided that the enforcement officer would normally have issued a suspension notice for a taxi licensed by their own home licensing local authority under the same circumstances. Indicative examples of when a suspension notice would be appropriate are; one of more bald / illegal tyres, less than 2 functioning headlights, less than 2 functioning brake lights and dangerous bodywork (i.e. jagged or sharp edges which in the opinion of the enforcement officer pose an immediate public safety risk)
- 3.2. Enforcement officers are permitted to withdraw a suspension notice they have issued if circumstances require this.
- 3.3. Normally, the home licensing local authority for a licensed driver or licensed vehicle is responsible for ensuring remedial action is monitored or completed.
- 3.4. If a taxi driver has no badge or a defective badge, the driver should be advised that it is an offence not to display a badge, to cease trading and that the details will be reported to the home licensing local authority.
- 3.5. In the event of obstruction or conflict between a driver and an enforcement officer, the home licensing local authority should be provided with as much information as possible the next working day to allow a decision to be made.
- 3.6. Safeguarding concerns should be reported to the police immediately and the home licensing local authority should be notified as soon as practicable.
- 3.7. Certificates of Authorisation will be issued by each participating enforcement local authority to the designated enforcement officers in the other participating enforcement local authorities in an agreed format.
- 3.8. Each participating enforcement local authority will establish their own schemes of delegation and what procedural steps are required to validly authorise enforcement activities undertaken by other participating enforcement local authorities.
- 3.9. Each participating local authority will undertake to carry out at least 2 enforcement exercise during the six month trial.
- 4.0. The delegated powers within the provisions of this Memo of Understanding will come into force on the agreed commencement date.

- 4.1 Notwithstanding the terms and conditions in this Memo of Understanding, this does not prejudice the right of any participating enforcement local authority to withdraw from the delegated power scheme with 14 days notice given to all other participating enforcement local authorities. Each participating enforcement authority undertakes not to withdraw their delegated powers prior to the Review which is due 6 months after the commencement date, unless it considers there is good reason to do so. The delegated power is not to be unreasonably withdrawn.



# Appendix 2

## List of participating authorities

Darlington  
Durham  
Gateshead  
Hartlepool  
Middlesbrough  
Newcastle upon Tyne  
Northumberland  
North Tyneside  
Redcar & Cleveland  
South Tyneside  
Stockton-on-Tees