

Cabinet

Date of Meeting: 10 April 2018

Report Title: Notice of Motion - Licensing of Hackney Carriage and Private Hire Vehicles

Portfolio Holder: Cllr Ainsley Arnold: Housing, Planning and Regeneration Portfolio Holder

Senior Officer: Frank Jordan, Executive Director - Place

1. Report Summary

- 1.1. The purpose of this report is to respond to the Notice of Motion considered at the Council meeting on 22nd February 2018 in relation to the proposed Safeguarding Bill:

'This Council regrets that the Licensing of Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Bill was 'talked out' by Sir Christopher Chope (Christchurch) (Con) in Parliament, and calls on all of Cheshire East's Members of Parliament to re submit the Bill.

Cheshire East Children and Family's Scrutiny report on Child Sexual Exploitation recommended Taxi and Private Hire Licensing, it is disappointing that this important legislation was talked out.'

2. Recommendation

- 2.1. That Cabinet

- 2.1.1. Agrees that the Portfolio Holder for Housing, Planning and Regeneration writes to Secretary of State for Transport asking Government to consider how to close the loopholes and potential for abuse left open as a result of cross border hiring and will ask local MPs to support the above letter to the Secretary of State.

3. Reason for Recommendation

- 3.1. Council has referred this matter to Cabinet for consideration.

4. Other Options Considered

- 4.1. The paper outlines only one option in response to the Notice of Motion presented to Council.

5. Background

- 5.1. Members may recall that the issue of Safeguarding in relation to taxi licensing has previously been considered by Cabinet. This resulted in a number of letters being sent to the relevant Ministers at the Department for Transport (and others, including the local MPs) to set out the Council's concerns.
- 5.2. The current legislation relating to taxi licensing was written in 1847 and 1976. There are therefore various matters and situations that currently arise in today's world that were not envisaged when the legislation was written. These matters include:
 1. The increase in cross border hiring (where a vehicle licensed by one Council works partly or wholly in the area of a different Council)
 2. The increase in technology and the impact this has on the way vehicles are hired.
- 5.3. Following the Deregulation Act 2015 (which made cross border hiring easier by allowing sub-contracting between operators licensed by different Councils) and the increase in app based booking systems (such as Uber and Halo etc) cross border hiring has increased. This means that vehicles and drivers licenced by Councils other than Cheshire East can lawfully work in our area without meeting our requirements or conditions. When the vehicle is licenced by a different Council our powers of enforcement/compliance are limited to offences against legislation only (ie we cannot enforce policy requirements or conditions).
- 5.4. Cheshire East Council would not know which vehicles, licensed by other Councils, are operating in our area; this is seen as a potential risk in relation to Child Sexual Exploitation (CSE) and trafficking, as licensed drivers may seek to exploit this situation for criminality. This risk is not limited to CSE or trafficking and could extend to other areas of illegality, such as drug dealing or drug distribution. However, it is not possible to quantify this risk or establish if there is a risk to Cheshire East. We have had no complaints or information that would suggest this is currently going on.
- 5.5. Notwithstanding, the reports that followed the CSE investigations in Rochdale and Rotherham did identify the taxi trade as an area of risk.
- 5.6. The cross border hiring of vehicles has the potential to create further anomalies. For example, it is possible for Cheshire East Council to refuse a licence to an applicant but for that person to then be granted a licence by a

differently Council whose standards may not be as robust. That person can work exclusively in Cheshire East when we have taken a decision not to licence them.

- 5.7. The Licensing of Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Bill sought to counter these issues by placing a duty on Licensing Authorities to:
 1. Record decisions in a database
 2. Search the database
 3. Report concerns about out of area drivers
 4. Dealing with reported concerns about out of area drivers
- 5.8. Whilst these are important proposals, the Bill did not provide a definition of key terms used, such as; 'has threatened, abused or insulted another person'. And provided no framework to guide how Councils might interpret what should and should not be disclosed. It would therefore be open to individual Councils to determine whether or not to share information. This may lead to inconsistencies and the potential that important information is not shared.
- 5.9. The Local Government Association is working on a national database where all Councils can record decisions to revoke, refuse or suspend licences.
- 5.10. When Cabinet has previously considered these matters, they have favoured the following suggestions to improve standards across England and Wales:
 1. A set of national minimum standards for licensed vehicles and powers of suspension given to all authorised officers where these standards are not met.
 2. As set of national minimum standards for licensed drivers, to include the requirement to undertake a professional qualification & CSE awareness training and a national policy in relation to the relevance of convictions.
 3. To reintroduce the power to suspend drivers suspected of serious offences while under investigation where it is in the interest of public safety. This was general practice until the judgement in *R (app Singh) v Cardiff City Council (2012)* where the High Court ruled that suspension could not be an interim sanction.
 4. That relevant Ministers consider how to close the loopholes and potential for abuse left open by cross border hiring.

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1. There are no legal implications.

6.2. Finance Implications

6.2.1. There are no financial implications.

6.3. Equality Implications

6.3.1. There are no equality implications.

6.4. Human Resources Implications

6.4.1. There are no human resource implications

6.5. Risk Management Implications

6.5.1. If the Council were to discharge its functions unlawfully or without proper regard to its Constitution and Policies, any decisions made may be subject to appeal or challenge by Judicial Review.

6.6. Rural Communities Implications

6.6.1. There are no direct implications for rural communities.

6.7. Implications for Children & Young People

6.7.1. There are no direct implications for children and young people.

6.8. Public Health Implications

6.8.1. There are no direct implications for public health.

7. Ward Members Affected

7.1. This matter does not directly affect any individual wards.

8. Access to Information

Background documents:

<https://www.local.gov.uk/about/news/lga-responds-taxi-licensing-bill-being-talked-out>

<https://hansard.parliament.uk/commons/2018-02-02/debates/5364D0A7-BBCF-4E51-8E75->

[F87FD1AD192/LicensingOfTaxisAndPrivateHireVehicles\(SafeguardingAndRoadSafety\)Bill](F87FD1AD192/LicensingOfTaxisAndPrivateHireVehicles(SafeguardingAndRoadSafety)Bill)

9. Contact Information

9.1. Any questions relating to this report should be directed to the following officer:

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