

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	19 th January 2016
Report of:	Steph Cordon, Head of Communities
Subject/Title:	Notice of Motion – Taxi Licensing
Portfolio Holder:	Cllr Les Gilbert, Communities

1.0 Report Summary

- 1.1 The purpose of this report is to consider and respond to the following motion which had been moved by Councillor Rhoda Bailey and seconded by Councillor Dorothy Flude at the Council meeting on 17th December 2015 and referred to Cabinet for consideration:

‘Drivers of hackney carriages and, in particular, private hire vehicles licensed by other authorities are operating in this area.

This Council would not be notified of their criminal offences committed subsequently, as the law requires the Police to notify only the Authority which granted the licence of any notifiable offences.

In view of the prevalence of child sexual exploitation and the dangers caused by children being trafficked from one area to another, that this Council takes steps to lobby for legislation to change the law, to extend the requirement to notify, and to reduce the ability of applicants to obtain licences in authority areas other than where they live.’

2.0 Recommendation

- 2.1 That Cabinet support the spirit of the motion referred to in paragraph 1.1 and resolve that the Leader write to all local MPs, the Local Government Association and the Secretary of State for Transport setting out the Council’s concerns and to seek the Government’s current position in relation to the Law Commission review and any planned changes to taxi legislation and seek to positively influence any changes where possible.

3.0 Reason for Recommendation

- 3.1 Following a Notice of Motion presented to Council.

4.0 Wards Affected

- 4.1 None at this stage

5.0 Local Ward Members

5.1 None at this stage

6.0 Policy Implications

6.1 Protecting our residents and taking action against unlawful activity are key aims of our 'Residents First' and 'Enforcing Council' principles.

7.0 Implications for Rural Communities

7.1 There are no specific implications for rural communities.

8.0 Financial Implications

8.1 There are no immediate financial implications arising from this report.

9.0 Legal Implications

9.1 There are no legal implications at this stage as no change to the current Council policies and procedures are currently proposed.

10.0 Risk Management

10.1 It is not possible to quantify the risk, if any, to the Council at this stage. Any action proposed or taken should enhance the protection of our residents already provided.

11.0 Background and Options

11.1 This report addresses the issues raised by the motion referred to in paragraph 1.1.

11.2 This is a matter that has caused the Licensing Authority, and the Task and Finish Group of Overview and Scrutiny Committee which was set up to tackle child sexual exploitation, some concern. This culminated in the Leader of the Council writing, in March 2015, to each of the Members of Parliament representing constituencies within the Borough and the Chair of the Safer and Stronger Communities Board at the Local Government Association.

11.3 A copy of this letter is set out at Appendix 1, detailing the concerns the Leader raised and setting out ways Cheshire East would look to work with partners to change taxi legislation. Unfortunately, no response was received to this letter.

11.4 The Law Commission has previously been tasked by the Government to investigate how taxi licensing in England and Wales could be updated and improved. They conducted an extensive review of both Hackney Carriage and Private Hire Licensing and their report was published in

May 2014. Subsequently, Stephen Hammond MP, Parliamentary Under-Secretary of State for Transport, made a statement in the House of Commons in confirming that there would be no Bill presented to Parliament. A summary of the Law Commission's proposals is set out at Appendix 2. The current status of this report is unknown.

- 11.5 Parliament has changed the way hackney carriage and private hire licensing operates by including changes in the Deregulation Act 2015, which included allowing private hire operators to sub contract work to private hire operators licensed by any Council. Previously sub-contracting needed to take place between operators licensed by the same Authority. Proposals to allow any driver to drive a licensed vehicle for personal use were dropped. It remains the case that a licensed vehicle must always be driven by a licensed driver, even when being used for personal use. This change would have been a risk and would have made enforcement against unlicensed drivers very difficult.
- 11.6 The Notifiable Occupations Scheme (Home Office Circular 6/2006), within which taxi drivers were included, came under great scrutiny in 2014 with challenges to the scheme's proportionality going before the higher Courts.
- 11.7 Consequently, the scheme was withdrawn after the relevant Ministers took legal advice on its validity. Following withdrawal of the scheme information sharing relating to offences reverted back to the Common Law powers of disclosure. The test used is where there is a pressing social need to release the information.
- 11.8 Steps have been taken to mitigate the risk that may have resulted in the NOC scheme being withdrawn. To facilitate the better sharing of information, Cheshire Constabulary and Local Authorities within Cheshire entered into an Information Sharing Agreement. This agreement provides clarity and guidance on when and what information will be shared between signatories, including Cheshire East. Information given under the agreement has resulted in our General Licensing Sub-Committee revoking licences where drivers have been charged with sexual offences.
- 11.9 However, this agreement relates to licensed drivers who are licensed by our Licensing Authority. As identified in the Notice of Motion, drivers licensed by other Licensing Authorities could be working in our Borough without us knowing their criminal history and without us being able to prevent them from working in our area if they do not meet our standards/requirements.
- 11.10 Each Licensing Authority will set out its requirements and standards expected of those it licensed. These standards can vary considerably between Authorities and it is possible for an applicant to be refused a licence in one area, but be granted a licence by a different Council.

- 11.11 Under the relevant legislation and associated case law it is possible for licensed vehicles and drivers to operate anywhere in England and Wales. They are not restricted to working in their own area (i.e. the Council area where their license is granted). It is therefore possible for Cheshire East to refuse to grant an applicant a licence; they apply and are granted a licence by a different Licensing Authority, but then work within the Cheshire East area.
- 11.12 This situation causes some concern generally and specifically in relation to Child Sexual Exploitation matters. Especially having regard to the reports in Rochdale and Rotherham and comments made in relation to taxi licensing. Rochdale and Rotherham have demonstrated that under the current legislation there is a potential risk to children and young people in Cheshire East from private hire vehicles licensed by other authorities operating within our boundaries. The profile of our cases does not identify this currently as a major challenge. It is also important to recognise that many potential perpetrators may not have a police record. Whilst a change to legislation would support better safety for all vulnerable groups the focus for work within Cheshire East across the partnership has been to look at how we can work with taxi drivers to become a protective factor in our communities, to understand and report concerns, develop safe practice and support the 'Know and See' campaign (<http://www.knowandsee.co.uk/>).
- 11.13 Any changes to ease of cross border hiring would need to be made by primary legislation and are therefore not within the gift of Cheshire East or any other Council.
- 11.14 It is proposed that a further letter is sent to all local MPs to lobby on behalf of Cheshire East and to the Local Government Association and the Secretary of State for Transport to continue to press for changes in the legislation.

12.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Kim Evans
Designation: Licensing Team Leader
Tel No: 01270 686413
Email: kim.evans@cheshireeast.gov.uk