

## **Report to Council**

**Subject:** Cross Border Taxi Licensing Enforcement

**Date:** 31<sup>st</sup> January 2018

**Author:** Service Manager – Public Protection

### **Purpose**

This report seeks Council approval to delegate certain taxi licensing enforcement powers under the Local Government (Miscellaneous Provisions Act) 1976 to other licensing authorities in Nottinghamshire, as well as being retained by this authority, in order to enable authorised officers appointed by other licensing authorities to take enforcement action against Gedling Borough Council licensed vehicles and drivers operating in other licensing authority areas.

Where other licensing authorities have delegated such enforcement powers to Gedling Borough Council, the report also seeks Council's approval to delegate responsibility to the Director of Health and Community Wellbeing to appoint authorised officers in this authority to carry out enforcement against vehicles and drivers licensed by other licensing authorities operating within the borough of Gedling.

### **Background**

- 1.1 In October 2010 the High Court in its decision in the case of Stockton on Tees Borough Council v Fidler, Hussain and Zamanian (2010 EWHC 2430) ruled that a Hackney Carriage and driver licensed in one controlled district, may work in another controlled district, undertaking 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.
- 1.2 In addition, following the introduction of the De-regulation Act 2015 in October 2015, private hire operators were able to sub-contract to taxi firms 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 licensed by Gedling Borough Council, who are free to operate throughout Nottinghamshire and indeed the country.

- 1.3 Under the Local Government (Miscellaneous Provisions) Act 1976 (“the Act”) enforcement against Private hire vehicles and drivers can only be undertaken by authorised officers of the licensing authority who issued the licence, as such, Gedling licensed vehicles and drivers, being driven outside of the Gedling boundary cannot be the subject of enforcement action under the Act unless Gedling authorised officers conduct enforcement activity outside their area.
- 1.4 Historically, there has been joint enforcement operations undertaken inside the City boundary with the City Council authorised officers, but the ability to enforce outside the area has been limited due to resource.
- 1.5 In order to address this issue and to try and improve driver and vehicle standards across the County, Nottinghamshire authorities have been working together to find a way to work in partnership, and conduct enforcement across licensing boundaries.
- 1.6 Under section 101 of the Local Government Act 1972 it is possible for Gedling Borough Council to make arrangements to delegate the exercise of its function of taxi licensing enforcement to another local authority, whilst still exercising the function itself within Gedling Borough. The other local authority, if it accepts that transfer of function, 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 Gedling licensed vehicles and driver’s operating in that authority’s area.
- 1.7 Likewise, as this is a problem which is shared across Nottinghamshire, other authorities are currently obtaining their own approvals to delegate their enforcement functions under the Act to Gedling Borough Council. If those arrangements are approved by Council, it would be practical to tie those enforcement functions in with Gedling’s own enforcement functions and delegate responsibility to the Director of Health and Community Wellbeing to appoint authorised officers within this authority to undertake enforcement against drivers and vehicles licensed by other licensing authorities but operating within the Gedling boundary.
- 1.8 In order to ensure this transfer of function works well at an operational level, officers have worked together on a document, originally put together by the City Council, which sets out how the cross border enforcement would work operationally, and how the information gathered through enforcement would be shared by the authorities. The document, entitled

“Cross Border Enforcement Operational Protocol – Private Hire and Hackney Carriage Vehicles and Drivers” (“the Protocol”), at Appendix A to this report, has already been signed by the City Council and Rushcliffe Borough Council and it is expected that it will ultimately be signed by all authorities listed in Appendix 1 of the Protocol. 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.

1.9 The Protocol also sets out at Appendix 2, exactly which enforcement powers would be delegated to other licensing authorities. They are limited to the following sections under the Act:

- S.53 (3) – production of driver’s badge/licence for inspection to an authorised officer
- S.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.
- S.73 obstruction of an authorised officer

To be clear, the authority delegating is still able to carry out these enforcement functions itself within its area. 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. As such the Environment and Licensing Committee would not be taking decisions in relation to drivers from other licensed authority areas. Similarly, Committees of other licensing authority areas would not be making decisions in relation to licences issued by Gedling Borough Council.

## **Proposal**

2.1 It is proposed that Council authorises the delegation of taxi-licensing enforcement functions as set out in Appendix 2 to Appendix A of this report to those authorities listed at Appendix 1 to Appendix A of this report, subject to those authorities accepting the delegation.

2.2 It is proposed that Gedling Borough Council accepts reciprocal delegations of the enforcement functions as set out in Appendix 2 to Appendix A of this report from those authorities listed in Appendix 1 to Appendix A of this report, once authority for those delegations has been given.

2.3 It is proposed that the Director of Health and Community Wellbeing be authorised to appoint authorised officers to carry out the enforcement functions transferred to this Council by the authorities listed in Appendix 1 to Appendix A of this report subject to those authorities delegating those

functions to Gedling Borough Council. The Director currently has delegated authority to appoint authorised officers in relation to this function in Gedling.

- 2.4 It is proposed that the Director of Health and Community Wellbeing in consultation with the Director of Organisational Development and Democratic Services, be authorised to finalise and sign the Protocol at Appendix A to this report in order to facilitate appropriate operational arrangements for cross border enforcement.
- 2.5 It is proposed that the Director of Organisational Development and Democratic Services be authorised to make the necessary amendments to the Constitution to reflect the delegations approved.

### **Financial Implications**

- 4.1 Whilst the enforcement powers of Gedling will effectively widen as we will have authority to take enforcement action against drivers and vehicles from outside the area, it is expected these activities will be undertaken without utilising additional resources and within the existing Licensing budgets.

### **Appendices**

- 5.1 Appendix A – Cross Border Enforcement Operational Protocol Private Hire and Hackney Carriage Vehicles and Drivers.

### **Background Papers**

- 6.1 None identified

### **Recommendation(s)**

#### **It is recommended that Council:**

- a) approve the delegation of taxi-licensing enforcement functions under the Local Government (Miscellaneous Provisions Act) 1976, as set out in Appendix 2 to Appendix A of this report, to those licensing authorities listed at Appendix 1 to Appendix A to this report, subject to those authorities accepting the delegation.
- b) accepts reciprocal delegations as set out in Appendix 2 to Appendix A to this report from those licensing authorities listed at Appendix 1 to Appendix A to this report once those delegations have been given.
- c) authorise the Director of Health and Community Wellbeing to appoint authorised officers to carry out enforcement functions under the Local

Government Miscellaneous Provisions Act 1976, as set out at Appendix 2 to Appendix A of this report, transferred to this authority by the authorities listed in Appendix 1 to Appendix A of this report, subject to those authorities delegating those functions to Gedling Borough Council.

- d) authorise the Director of Health and Community Wellbeing in consultation with the Director of Organisational Development and Democratic Services to finalise and sign the Protocol at Appendix A to this report.
- e) authorise the Director of Organisational Development and Democratic Services to make the necessary changes to the Constitution to reflect the approved delegations.

### **Reasons for Recommendations**

To enable effective cross border enforcement to be taken against Hackney Carriage and Private Hire vehicles and drivers operating across Nottinghamshire by all Nottinghamshire authorities, at the right level, in the interests of public safety.