

## Regulatory & Appeals Committee – 10 February 2020

<b>Title of paper:</b>	Private Hire Drivers Licences - Additional Conditions	
<b>Director(s)/ Corporate Director(s):</b>	Andrew Errington Director – Community Protection	<b>Wards affected: ALL</b>
<b>Report author(s) and contact details:</b>	Angela Rawson 0115 8761749 <a href="mailto:Angela.rawson@nottinghamcity.gov.uk">Angela.rawson@nottinghamcity.gov.uk</a>	
<b>Other colleagues who have provided input:</b>	Ann Barrett, Team Leader Legal Services 0115 8764411 <a href="mailto:ann.barrett@nottinghamcity.gov.uk">ann.barrett@nottinghamcity.gov.uk</a>  Dionne Screaton, Solicitor 0115 8764404 <a href="mailto:dionne.screaton@nottinghamcity.gov.uk">dionne.screaton@nottinghamcity.gov.uk</a>	
<b>Date of consultation with Portfolio Holder(s) (if relevant)</b>	N/A	
<b>Relevant Council Plan Key Theme:</b>		
Strategic Regeneration and Development		<input type="checkbox"/>
Schools		<input type="checkbox"/>
Planning and Housing		<input type="checkbox"/>
Community Services		<input type="checkbox"/>
Energy, Sustainability and Customer		<input checked="" type="checkbox"/>
Jobs, Growth and Transport		<input checked="" type="checkbox"/>
Adults, Health and Community Sector		<input type="checkbox"/>
Children, Early Intervention and Early Years		<input type="checkbox"/>
Leisure and Culture		<input type="checkbox"/>
Resources and Neighbourhood Regeneration		<input type="checkbox"/>
<b>Summary of issues (including benefits to citizens/service users):</b>		
<p>Consideration of the matters outlined in this report was deferred from the meeting of Regulatory and Appeals Committee on 16 December 2019 following the late submission of representations from a2z Licensing. Whilst the proposals were supported in principle a formal determination was deferred for further legal advice which is contained in the exempt appendix to this report. The Committee is asked to note the report and approve the additional conditions at Appendix 1 to be imposed upon the grant of any new Private Hire Drivers Licence or renewal of an existing Private Hire Drivers Licence and that drivers who intend to drive for more than one operator during the currency of their existing licence be asked to voluntarily abide by similar conditions.</p>		
<b>Exempt Information:</b>		
<p>An appendix to this report is exempt from publication under paragraph number 5 of Schedule 12A to the Local Government Act 1972 because it contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings and, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p> <p>It is in the public interest to maintain the exemption to enable full and frank discussion around the prospects of success of a threatened legal challenge</p>		

<b>Recommendation(s):</b>	
<b>1</b>	To note the contents of the report.
<b>2</b>	(i) the additional conditions in Appendix 1 are imposed on the grant of any new Private Hire Drivers Licence or renewal of an existing Private Hire Drivers Licence; (ii) that existing drivers who intend to drive for more than one operator be asked to sign and comply with a voluntary undertaking outlined in Appendix 2,

## **1 Reasons For Recommendations**

- 1.1 Private Hire Drivers have recently raised the subject of being able to work for more than one operator. The practice itself is not illegal but historically has not been encouraged by the Taxi Licensing Authority. In the event that Private Hire Drivers were to take up this practice it is felt, where possible on the grant of any new Private Hire Drivers Licence or renewal of an existing Private Hire Drivers Licence, that additional conditions are required to assist in supporting existing safeguarding measures. The proposed additions are listed in Appendix 1.
- 1.2 Private Hire Drivers Licence conditions cannot be added retrospectively to existing licences and can only be applied upon the grant of a new licence or renewal of an existing licence. Therefore, it is proposed to request existing private hire licenced drivers who wish to work for more than one operator, to sign a voluntary undertaking, to abide by the additional conditions in support of upholding safeguarding measures. The sample undertaking is appended in Appendix 2 for noting.

## **2 Background (Including Outcomes Of Consultation)**

- 2.1 A report on these issues is being brought back to Committee following the deferral of a similar report on 16 December 2019 as outlined in the Summary above. A copy of the late submissions raised by a2z licensing are attached as Appendix 3 to this report.
- 2.2 The Local Government (Miscellaneous Provisions) Act 1976 (“the Act”) permits Councils upon application to grant a person a licence to drive Private Hire vehicles provided that person is deemed fit and proper.
- 2.3 Under section 51(2) of that Act, the Council may also attach to the grant of such licence conditions as it may reasonably necessary, but in relation to which there is a right of appeal to the Magistrates’ Court under section 52 of the Act by any person aggrieved by any conditions attached.
- 2.4 Historically, the practice in Nottingham has been that drivers only worked for one Private Hire Operator which holds the original copy of the drivers paper licence. However, the Council has recently been approached for clarification on the position regarding drivers working for more than one operator, a practice that is and has been commonplace in other Taxi Licensing Authorities. This is not just in rural authorities as suggested in a2z’s letter but also in areas such as Leicester, Birmingham and Derby.
- 2.5 The primary benefit to a licensed driver would be the choice to move between operators as work and the commercial market fluctuates, a practice which is common in other Licensing Authorities. An example of when a driver may wish to work for more than one operator could be when ‘surge pricing’ occurs. Surge pricing is a commercial way of managing an optimum travel period where increased

fees are charged by the operator which in turns can result in more revenue for the driver.

- 2.6 It is considered reasonably necessary, in the interest of public safety for safeguarding purposes to ensure that the Licensing Authority has an accurate record of the company a driver is working for at any point in time, so it is intended to add the conditions attached at Appendix 1 to all grants of a new private hire driver licences or renewal of an existing private hire driver's licence. Whilst it is not legally possible to impose such conditions on existing licences, prior to renewal, it is proposed that existing private hire drivers who intend to work for more than one operator will be requested to provide an undertaking to abide by the additional conditions as outlined in Appendix 2 until such time as they can be legally imposed at renewal. This is to seek to ensure that the same safeguarding standards are maintained.. It is accepted however that the latter would be on a voluntary basis.
- 2.7 Conditions 15(i) and (ii) aim to ensure that licensing records are updated on a regular basis so that should concerns be raised, there is a record of which operator the driver is attached to.
- 2.8 At present a driver is required to deposit with the operator they are working for the original copy of their Nottingham City Council drivers licence. If a driver is intending to work for more than one operator then it is proposed that a mandatory requirement is imposed requiring that a certified copy licence be held by each additional operator, prior to commencement of any work for that operator. The driver should obtain the certified copy from the Licensing Office at their own cost.
- 2.9 Condition 15(iii) again relates to safeguarding and ensures that the Nottingham City Council hold the latest information as to the drivers work pattern. Should concerns become apparent, the enforcement officers will have a starting point for their enquiries.
- 2.10 Customer safety is of paramount importance and to ensure that the passenger can identify the company they have called, condition 15(iv) requires that the driver displays the panel of the company they are driving for at the time of hiring.
- 2.11 Cumulatively, these proposals not only give the driver more commercial opportunities but also provide appropriate safeguarding protection for the travelling public.
- 2.12 Various objections were raised to these proposals in the late submissions made by a2z which were reported verbally to the committee on 16 December 2019 and resulted in the matter being deferred for further legal advice. That advice is now attached in the Exempt Appendix to this report.

### **3 Other Options Considered In Making Recommendations**

- 3.1 Not applying additional conditions or seeking a voluntary undertaking, As outlined in paragraph 1.1 the practice of working for more than one operator is not unlawful the option of doing nothing was disregarded as it is felt that additional conditions are appropriate to protect the public.

### **4 Finance Colleague Comments (Including Implications And Value For Money/Vat)**

- 4.1 None

## **5 Legal And Procurement Colleague Comments (Including Risk Management Issues, And Legal, Crime And Disorder Act And Procurement Implications)**

- 5.1 A district council may attach to the grant of a licence under section 51 of the Act such conditions as they may consider reasonably necessary.
- 5.2 The Committee should note that under s 52 (2) of the Act any person aggrieved by any conditions attached to the grant of a driver's licence may appeal to a magistrates' court.
- 5.3 There is no provision within the Act to impose conditions other than on the grant of a licence to a driver under section 51 (i.e. initially or on renewal). It would be unlawful to impose additional conditions during the term of an existing Private Hire Vehicle Driver's Licence. An existing Private Hire Vehicle Licensed Driver could only be requested to abide by the proposed additional conditions, as per the suggested undertaking.
- 5.4 There is no restriction under the Act prohibiting a driver working for more than one operator.
- 5.5 If a Private Hire Vehicle Licenced driver were to choose to work for more than one operator, any conditions that could be attached to the grant (initially or on renewal) of a licence must be reasonably necessary in order to comply with section 51(2) of the Act. The paramount consideration in the licensing of a Private Hire Vehicle driver is always the welfare and safety of the public. The conditions are recommended as reasonably necessary in the interest of public safety for safeguarding purposes and to ensure the tractability of pre-bookings.
- 5.7 Given the potential threat of legal proceedings contained in a2z's letter of 14 December 2019 further exempt legal advice on the issues raised by that letter is given in the exempt Appendix to this report

## **6 Strategic Assets & Property Colleague Comments (For Decision Relating To All Property Assets And Associated Infrastructure) (Area Committee Reports Only)**

- 6.1 None

## **7 Equality Impact Assessment**

- 7.1 Has the equality impact of the proposals in this report been assessed?

No. This report does not include substantive changes to policy, services or functions that negatively impact differentially on any group with protected characteristics

## **8 List Of Background Papers Other Than Published Works Or Those Disclosing Confidential Or Exempt Information**

- 8.1 None

## **9 Published Documents Referred To In Compiling This Report**

- 9.1 Local Government (Miscellaneous Provisions) Act 1976

**Proposed Additional Conditions  
Private Hire Drivers Licence**

“15. Where the driver proposes to operate for more than one operator they shall

i) provide the Council with a signed offer of work letter from each operator they propose to work for prior to the commencement of such work with the Operator.

ii) give 7 days prior notification to the Council when

a) commencing work as a Private Hire Vehicle Licensed Driver for the second or subsequent operator

b) ceasing work as a Private Hire Vehicle Licensed Driver for an Operator but if such work is commenced or ceased on fewer than 7 days' notice the driver shall comply with i) or ii) above within 24 hours of commencing/ceasing such work.

iii) provide each Operator they work for with copies of their Private Hire Driver Licence together with the Private Hire Vehicle Licence certified by the Council. The costs of the Council in providing certified copies shall be borne by the driver.

iv) ONLY display the side panel for one operator on the vehicle at any given time that being the Operator with whom the specific hiring is booked.”

## Undertaking

### Existing Private Hire Vehicle Driver Licence working for more than one operator

I,

Of:

Licensed under

Private Hire Vehicle Driver Licence Number:

Private Hire Vehicle Licence Number:

intend to carry out work for the following Nottingham City Council Licensed Operators:

[List operators details ]

on:

As such, I undertake to abide by the following additional conditions:

I shall

i) provide the Council with a signed offer of work letter from each operator I propose to work for prior to the commencement of such work with the Operator.

ii) give 7 days prior notification to the Council when

- a) commencing work as a Private Hire Vehicle Licensed Driver for the second or subsequent Operator
- b) ceasing work as a Private Hire Vehicle Licensed Driver for an Operator but if such work is commenced or ceased on fewer than 7 days' notice I shall comply with i) or ii) above within 24 hours of commencing/ceasing such work.

iii) provide each Operator I work for with copies of my Private Hire Driver Licence together with the Private Hire Vehicle Licence certified by the Council. The costs of the Council in providing certified copies shall be borne by me.

iv) ONLY display the side panel for one Operator on the vehicle at any given time that being the operator with whom the specific hiring is booked.

I understand that should I fail to comply with any of the conditions above it could lead to my licence being reviewed.

Signed:

Print Name:

Date: