

**TO THE CHAIR AND MEMBERS OF THE
LICENSING COMMITTEE**

**Hackney Carriage and Private Hire Licensing Policy – Appendix 10 Private
Hire Operator – Conditions of Licence**

EXECUTIVE SUMMARY

1. The Doncaster Council Hackney Carriage and Private Hire Licensing Policy (HC & PH Licensing Policy) includes details of standards and conditions attached to the grant of a private hire operator's licence.
2. It has been established that once a vehicle has been licensed as a hackney carriage, it is a hackney carriage for the duration of that licence, wherever it is currently located, and can therefore be used for pre-booked (private hire) purposes in any district in England and Wales.
3. This situation creates a number of potential difficulties for us as a Licensing Authority and for other enforcement agencies, members of the public and the trade.
4. It has the potential to become a significant issue here in Doncaster because of an influx of hackney carriages into the town that are licensed by other Local Authorities.
5. In order to secure that effective safeguards are in place to mitigate against any public safety impact of this, additional conditions are being proposed.

RECOMMENDATIONS

6. That Committee authorises the Assistant Director - Environment, to go out to consultation with private hire operators, private hire vehicle licence holders and hackney carriage vehicle licence holders on the basis of the proposals set out in Appendix 1.
7. That the Business Safety & Licensing Manager be tasked to report back to the Committee with the outcome of that consultation, and make final recommendations to the Committee.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER

8. By implementing the recommendation of this report, the Doncaster Council Hackney Carriage and Private Hire Licensing will remain up to date and fit for purpose. The safety of the travelling public of Doncaster will not be compromised by the recommendations of this report.

BACKGROUND

9. In 2010, the High Court handed down a judgment in the case of Stockton-On-Tees Borough Council v Fidler, Hussain & Zamanian. This identified that once a vehicle has been licensed as a hackney carriage, it is a hackney carriage for the duration of that licence, wherever it is currently located, and can therefore be used for pre-booked (private hire) purposes in any district in England and Wales.
10. The judgment makes it clear that it is not an offence for a licensed private hire operator to take bookings, and then dispatch a hackney carriage licensed by a district (or Transport for London - TfL) which is different from that which licences the operator, to undertake the booking.
11. It also confirms that a hackney carriage vehicle can be used for pre-booked work outside the district in which the vehicle has been licensed, even if the Licensing Authority is some considerable distance from the district in which the vehicle is undertaking the pre-booked work.
12. The situation creates a number of potential difficulties for us as a Licensing Authority and for other enforcement agencies, members of the public and the trade. These include:
 - prejudice to public safety
 - inconsistent standards
 - increase in illegal 'plying for hire'
 - the inability to enforce or undertake spot checks on these vehicles (although the Police or VOSA have jurisdiction of any licensed vehicle, regardless of where they are licensed)
 - confusion for the customer and possible reduced disability access
 - conflict amongst the two sides of the licensed trade
 - loss of income to the local authority
13. In order to control the situation as far as is possible, it is important for all those affected by the ruling to understand the limits of the Stockton case in relation to what is allowed, and more importantly, what is not. This has the potential to become a significant issue here in Doncaster because of an influx of hackney carriages e.g. vehicles licensed by Gedling Borough Council, Rossendale Council and West Lindsey Council in to the town.

14. Since the Stockton ruling, the licensing team have received a significant number of enquiries about the situation from elected members, members of both the private hire and hackney carriage trade and from colleagues in other licensing authorities. Until recently a means of addressing this situation has not been identified.
15. For the Council, there are two principal concerns:
 - 1) Hackney carriage vehicles and drivers currently licensed elsewhere being used by private hire operators licensed in Doncaster to undertake private hire work.
 - 2) Individuals who previously have not been considered 'fit and proper' to hold a licence by Doncaster Council, e.g. due to inappropriate behaviour, can potentially become licensed as a hackney carriage driver in another local authority area and then undertake work here in Doncaster.
16. For drivers, there could be some perceived benefit in being licensed elsewhere, as the current system we have in place is arguably more rigorous than perhaps those at some other local authorities. For example, all drivers licensed by Doncaster Council are first required to satisfactorily complete a topographical knowledge test of the Doncaster borough. Drivers licensed elsewhere will not have a proven knowledge of the Doncaster borough with the potential for the passenger experience to be less efficient than might reasonably be expected.
17. Of particular concern is point 2 of paragraph 15. For example, where a Doncaster driver's licence is either revoked or refused by Doncaster Council due to inappropriate behaviour, it is conceivable that, where this behaviour falls short of a criminal conviction, the driver could become licensed elsewhere and undertake work here in Doncaster.
18. In relation to the concerns set out in paragraph 15, the High Court judgement defines the parameters within which this activity may be carried out. In reality, as a Licensing Authority, there is nothing Doncaster Council can do to prevent such trade, but it is possible to introduce additional conditions to protect public safety. Officers already have on record a small number of complaints from fare paying passengers and other stakeholders about the adequacy of the service received by out of Doncaster hackney carriage vehicles despatched to them by local private hire firms.
19. In order to secure that effective safeguards are in place to mitigate against any public safety impact of the application of the cross border rules within Doncaster, officers have produced some additional conditions which it is proposed should be adopted and inserted into the existing private hire operator licence conditions, subject to prior consultation with the affected trades. They appear in Appendix 1. The intention is that, following that consultation, a further report will be

presented to committee with appropriate resolutions, having taken into account the outcome of the consultation.

OPTIONS CONSIDERED AND REASON FOR RECOMMENDED OPTION

20. Having a Policy that is clear and up to date in terms of the law and best practice is the keystone to an effective taxi licensing regime. For these reasons the recommendation in paragraph 6 and 7 are considered to be the most appropriate options.
21. The Council has an over-arching public safety jurisdiction to safeguard the interests of passengers and the public. The implications of the ruling referred to in paragraph 9 identify a number of licensing loopholes which, if not addressed satisfactorily, could impact on public safety.
22. It is reasonable for the public of Doncaster, when booking a private hire vehicle from a Doncaster licensed private hire operator, to expect that Doncaster Council have determined that the vehicle is suitable and that the driver is a 'fit and proper' person. The proposed conditions will afford customers the opportunity to make an informed decision prior to making their booking.
23. To do nothing is not considered a viable option. There remain legitimate public interest concerns that need to be addressed in order to maintain robust regulatory control within Doncaster for the benefit of the fare paying public and licence holders.

IMPACT ON THE COUNCIL'S KEY PRIORITIES

24.

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> • Mayoral Priority: Creating Jobs and Housing • Mayoral Priority: Be a strong voice for our veterans • Mayoral Priority: Protecting Doncaster's vital services 	<p>The Policy ensures that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public.</p>
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> • Mayoral Priority: Safeguarding our Communities • Mayoral Priority: Bringing down the cost of living 	<p>The Policy ensures that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public.</p>

	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> • Mayoral Priority: Creating Jobs and Housing • Mayoral Priority: Safeguarding our Communities • Mayoral Priority: Bringing down the cost of living 	<p>The Policy ensures that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public.</p>
	<p>All families thrive.</p> <ul style="list-style-type: none"> • Mayoral Priority: Protecting Doncaster's vital services 	<p>None</p>
	<p>Council services are modern and value for money.</p>	<p>Functions are delegated in the interests of speed, efficiency and cost effectiveness wherever possible.</p>
	<p>Working with our partners we will provide strong leadership and governance</p>	<p>None</p>

RISKS AND ASSUMPTIONS

25. It is accepted good practice that a Licensing Authority adopts a statement of licensing policy in respect of taxi licensing. By not having a Policy decisions of the Licensing Authority are more open to challenge.

LEGAL IMPLICATIONS

26. Section 55 of the Act states that, a district council shall, on receipt of an application from any person for the grant to that person of a licence to operate private hire vehicles grant to that person an operator's licence: Provided that a district council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an operator's licence.
27. A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary. Any applicant aggrieved by the refusal of a district council to grant an operator's licence under this section, or by any conditions attached to the grant of such a licence, may appeal to a magistrates' court.

FINANCIAL IMPLICATIONS

28. The costs associated with the applications and their determinations are met from fees paid to the Council by applicants for Taxi Licences under the relevant legislation. Ultimately drivers taking up licenses elsewhere could result in a reduction in income achievable and would bring about

a cost pressure within the Licensing service.

29. Since the Stockton 2010 High Court ruling, income levels have remained constant within the Taxi Licensing budgets.

HUMAN RESOURCES IMPLICATIONS

30. Not applicable

TECHNOLOGY IMPLICATIONS

31. Not applicable

EQUALITY IMPLICATIONS

32. Decision makers must consider the Council's duties under the Public Sector Equality Duty at s149 of the Equality Act 2010. The duty requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. There are no specific equality implications arising from this report. However, any activities arising from this report will need to be the subject of separate 'due regard' assessments.

CONSULTATION

33. It is proposed to undertake a 4 week consultation with private hire operators, private hire vehicle licence holders and hackney carriage vehicle licence holders on the basis of the proposals set out in Appendix 1

BACKGROUND PAPERS

34. Doncaster Council's Hackney Carriage and Private Hire Licensing Policy.

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Appendix A

It is proposed that the following condition be added as an additional condition to Doncaster Council's existing Private Hire Operator Licence Conditions.

CONDITION: 'OUT OF TOWN' HACKNEY CARRIAGES ACTING AS PRIVATE HIRE VEHICLES IN THE DONCASTER COUNCIL LICENSING DISTRICT.

i. SCHEDULE OF DRIVERS

- a) The Private Hire Operator shall notify the Licensing Authority forthwith, and in any event within 72 hours of each and every Hackney Carriage driver employed or used for Private Hire bookings via the Operator Driver Schedule; this will include Hackney Carriage drivers licensed by this or any other Licensing Authority.
- b) Where a Private Hire Operator ceases to employ or use any such licensed Hackney Carriage driver, the Operator shall forthwith, and in any event within 72 hours, notify the Licensing Authority in writing.
- c) The Private Hire Operator shall retain a copy of the Hackney Carriage driver licence granted by this or any other Licensing Authority along with a copy of the driver's DVLA licence, and any other driver of that vehicle, and forward a copy of those documents to the Doncaster Council Licensing Office forthwith, and in any event within 72 hours of registering that driver.

ii. SCHEDULE OF VEHICLES

- a) The Private Hire Operator shall notify the Licensing Authority forthwith and in any event within 72 hours of each and every Hackney Carriage vehicle employed or used by the operator, this includes those Hackney Carriage vehicles licensed by this or any other Licensing Authority.
- b) Where a Private Hire Operator ceases to employ or use any such licensed Hackney Carriage vehicle, the Operator shall forthwith, and in any event within 72 hours, notify the Licensing Authority in writing.
- c) The Private Hire operator shall retain a copy of the Hackney Carriage vehicle licence granted by another Licensing Authority along with a copy of the MOT certificate, certificate and policy of insurance and vehicle registration document and forward a copy of those documents to the Doncaster Council Licensing Office within 72 hours.

iii. ADVERTISING ON VEHICLES

- a) Where a Hackney Carriage vehicle is licensed by another Licensing Authority, such a Hackney Carriage driver or Hackney Carriage vehicle is expressly prohibited from using any literature, any documentation,

any advertising or displaying any signage associated to the Private Hire Operator or Doncaster Council which suggests or might lead to a misunderstanding that the vehicle is licensed by this Authority.

iv. TELEPHONE BOOKINGS

- a) The receipt of advance bookings by the licensed Operator for Hackney Carriage vehicles licensed by another Licensing Authority or which are subsequently allocated to a Hackney Carriage Vehicle, licensed by another Licensing Authority, must be maintained in a completely separate register of bookings and in the same format as condition 1. If a computerised booking system is in place those booking records must be kept in a completely separate and distinct area of the systems hard drive to enable easy inspection by the Council.
- b) A separate telephone line and telephone number must be used and installed by the Private Hire Operator and used for Hackney Carriage vehicles licensed by another Licensing Authority which are undertaking Private Hire bookings within that operating base.

There must be a pre-recorded intercept message on the unique booking telephone line which clearly states to prospective customers the following:

“The driver and vehicle you are about to book are not licensed by Doncaster Council and Doncaster Council is not empowered to take licensing action against them in the event of a complaint. In the event of a complaint customers will have to deal with that other Authority where they may be licensed.”

- c) The caller should then be reminded of the Private Hire Operator main telephone number and given the option to be redirected to “a Doncaster Council licensed driver and vehicle”.
- d) In any advertising literature or web information, a form of words must be used which clearly states to prospective customers the following:

“The driver and vehicle you are about to book are not licensed by Doncaster Council and Doncaster Council is not empowered to take licensing action against them in the event of a complaint. In the event of a complaint customers will have to deal with that other Authority where they may be licensed.”