

Report of the Assistant Director - Planning and Public Protection

Update Report – Private Hire Licensing

Summary

1. This update report is for Members to note, at the request of the Chair. It explains the Council's present position regarding the interpretation of the law relating to private hire licensing and the ability to work outside the area within which they are licensed.
2. An alternative interpretation of the law has been put forward by members of the trade. The Opinion of their legal adviser is attached for Members information at Annex 1.

Recommendations

3. That the Report be noted.

Reason: To update the Committee on the Council's present position regarding the interpretation of the law relating to private hire licensing and the ability to work outside the area within which they are licensed.

The Council's Legal Position

4. At present, the Council considers the settled legal position to be as follows:

Provided the three licences required in relation to a private hire vehicle (operator, vehicle and driver) have all been issued by the same authority, then the private hire vehicle (PHV) can undertake journeys anywhere in England and Wales. That is irrespective of where the journey commences, areas through which the journey passes and, ultimately, the area where the journey ends.

See Adur District Council v Fry [1997] RTR 257.

In this case, a PHV was licensed by Hove Borough Council – operator, driver and vehicle. The situation concerned a booking for a journey that commenced, ended and throughout its length was within the district of Adur District Council.

The High Court determined that no offence was committed, and it was lawful for the PHV to undertake a journey that is wholly outside the district in which it is licensed. This is due to the limited meaning of the term “operate” contained in Local Government (Miscellaneous Provisions) Act 1976, Section 80(1), which meant “in the course of business to make provision for the invitation or acceptance of booking for a PHV” and could not be construed more widely.”

The Trade’s Legal Interpretation

5. On 19th November 2018, the Private Hire Association shared a legal Opinion it had obtained from Queen’s Counsel, that argues that operators of ‘out of town vehicles’ and their drivers are illegally operating in York. (Annex 1) It is important to stress, that this alternative view that has not been tested in the Courts.
6. The Council has instructed separate Counsel to advise, and await a comprehensive advice note. As there are ongoing applications at other Council’s pending determination concerning similar arguments, the Council has asked that the Opinion await these outcomes so that the advice note can have regard to these.

Council Plan

7. Seeking independent counsel advice supports the council’s priority to meet its statutory duties.

Implications

8. There are no implications associated with this report as it is for information only

Risk Management

9. There are no implications associated with this report as it is for information only.

Contact Details

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Report **Date** 01/02/19
Approved

Specialist Implications Officer(s) List information for all

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Wards Affected: List wards or tick box to indicate all **All**

For further information please contact the author of the report

Annexes

Annex 1 Legal Opinion – Private Hire Association