

Report of the Assistant Director of Planning & 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 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.
3. The Council has sought external legal advice. This concludes that the alternative legal view is flawed. This is attached for Members' information at Annex 2.
4. The Council's position remains the same and there is no need to amend current policy.

### **Recommendations**

5. That the conclusions in the Legal Advice at Annex 2 are accepted and it be recommended to the Executive that there is no requirement for a change in Taxi Licensing Policy as a consequence.

Reason: To provide clarity for the public in relation to the Council's interpretation of the law.

### **The Council's Legal Position**

6. The Council is satisfied that having regard to the independent Legal Opinion, the settled legal position remains 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**

7. 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.
8. The Council has instructed separate Counsel to advise, and a comprehensive advice note is attached at Annex 2.
9. The Advice concludes that the Trade’s legal interpretation is flawed.

### **Council Plan**

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

### **Implications**

11. There are no implications associated with the recommendation in this report.

## Risk Management

12. There are no implications associated with the recommendation in this report.

## Contact Details

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**Report**  **Date** 8 March 2019  
**Approved**

**Specialist Implications Officer(s)** List information for all  
Alison Hartley  
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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  
Annex 2: Legal Opinion – City of York Council