

**Decision Session – Executive Member of
Housing & Safer Neighbourhoods**

19 March 2018

**Decision to be made in consultation with the
Executive Member of Education Children and
Young People**

Report of the Corporate Director of Economy and Place

**Petitions – Driver Safeguarding Training and Safeguarding
Passengers**

Summary

1. This report seeks to:
 - (i) inform the Executive Members of two petitions that have been received by the Council. The first one is from York Hackney Carriage Association, entitled ‘Petition to Remove the £40 Fee for the Safeguarding Training’ (Petition 1). The second one is from York Taxi Trade entitled ‘Petition for Safeguarding Passengers’ (Petition 2);
 - (ii) provide details about the introduction of training, which is designed to enable licensed hackney carriage and private hire drivers to demonstrate an awareness of sexual exploitation issues, this being required to meet the criteria of being ‘fit and proper’ to hold a drivers licence in York;
 - (iii) provide details relating to the recent application determined by Gambling, Licensing and Regulatory Committee regarding the Uber Britannia Ltd private hire operator licence;
 - (iv) provide details of the legal reason why the authority cannot prevent out of area licensed vehicles/drivers operating in York.

Recommendations

2. The Executive Member for Housing & Safer Neighbourhoods, in consultation with the Executive Member for Education, Children & Young People, is asked to approve option 1 and determine that:

a) No further action is required in relation to Petition 1: -

Reason:

An ongoing review of the training is already timetabled. On the 13 November 2017, the Gambling, Licensing and Regulatory Committee considered a report relating to the review of driver training. The Committee approved the training and the fee and resolved that driver training would be reviewed by the Committee in six months time (scheduled for 21 May 2018).

b) No further action is required in relation to Petition 2: -

Reasons:

On the 12 December 2017, the Gambling, Licensing and Regulatory Committee considered a report relating to the renewal of Uber Britannia Ltd private hire operators licence. The Committee resolved to refuse this application (which is currently subject to an appeal in the Magistrates Court); and

The Chair and Vice Chair of the Gambling, Licensing and Regulatory Committee, and the Executive Member for Planning and Transport have already written to the two local MPs requesting that they ask the Department for Transport (DfT) to put hackney carriage and private hire reform back on the agenda. The DfT has formed a Taxi and Private Hire Working Group to consider the adequacy and efficiency of legislation and guidance concerning the licensing of taxis and private hire vehicles in England.

Background

3. Following the findings of the Jay and Casey reports, which related to Child Sexual Exploitation in Rotherham, the Council introduced a requirement that as part of the application process new driver applicants should complete sexual exploitation awareness training to demonstrate an understanding in this area. The Taxi Licensing Policy, approved by the Council in 2016, states that existing licensed drivers should also complete this type of specialist training.

4. Officers reviewed the existing training requirements for new driver applicants and developed a new training programme that, amongst other subject areas, encompasses sexual exploitation awareness.
5. Officers from Children's Services, working with colleagues from North Yorkshire Police, produced a half day training package in relation to safeguarding and child sexual exploitation, which was delivered to licensed drivers 'en masse' for free. The first training session was held in July 2016, around 100 drivers attended. However, it became apparent to all – including the drivers – that this was not an appropriate format to deliver this training and a new method of delivering the training in smaller groups with a specialist trainer was developed. It was determined that there would be different sessions tailored for new and existing drivers.

New Training Format for New Driver Applicants

6. In designing the training package for new drivers, Officers also considered feedback received from applicants regarding the knowledge test that was currently in place, concerns regarding the online disability awareness training and complaints received about the licensed trade. Working with colleagues in the Workforce Development Unit (WDU) a proposal was put forward that new applicants attend a training day on 'Knowledge and Safeguarding', this training would cover a variety of topics aimed at helping applicants in their new role, these topics include:
 - *Disability Awareness;*
 - *Child and Adult Safeguarding;*
 - *Sexual Exploitation;*
 - *Equality Awareness;*
 - *Customer Service;*
 - Legislation and Byelaws; and
 - York's Pedestrian Zone awareness
7. WDU undertook a procurement exercise and sourced a provider to facilitate this training. The fee charged to attend the training day is £80.00. This fee covers the cost of providing the training including the trainer and materials, the room and light refreshments.
8. The training day programme and fee were agreed under delegated authority by the Corporate Director of Economy and Place, the Chair and Vice Chair of Gambling, Licensing and Regulatory (GLR) Committee and the relevant Executive Member in June 2017.

Members of GLR Committee were also notified by email with regard to the introduction of this new training in August 2017.

Sexual Exploitation Training for Existing Licensed Drivers

9. Officers also considered the training that should be delivered to existing licensed drivers. In devising this package, consideration was also given to the grounds on which driver licences had been suspended or revoked and the complaints received regarding the licensed trade. It was determined that it would be beneficial that a half day training session would be held covering the five topics in italics at paragraph 6. This training would be delivered by the same trainers as the full day training and would cost £40.00. The training includes a presentation, along with group work and discussion. There is a test at the end of the session, in the form of a 'quiz'.
10. The £40.00 fee for the half day training session has been set by WDU. This fee again covers their costs in facilitating the training as described above. Annex 3 gives details of the content and cost of similar sessions operated by other Councils in the area. Our fee is slightly higher than the fee charged by Bradford MDC, although there is no 'resit' requirement in our provision. It is also important to stress that we have tried to deliver a free package but it is universally regarded as undeliverable in that format.
11. Letters were sent to holders of hackney carriage and private hire drivers licenses, to advise them of this training, how to book, the cost and that they would be required to complete the training prior to the expiry of their drivers licence (at this time a majority of which expire in 2019 and the remainder in 2020). Whilst the letter advised that drivers who fail to complete the training would not have their licenses renewed, it should be noted that each renewal must be dealt with on its own merits. For example, a driver may provide evidence that they have undertaken recent equivalent training that could demonstrate a sufficient level of understanding to meet the 'fit and proper' test. At the time of writing, 54 licensed drivers have completed the training and the feedback has been positive.

Out of Area Licensed Vehicles/Drivers Operating in York

12. There are no provisions within legislation to prevent hackney carriage and private hire vehicles properly licensed by one authority area from working within another authority area. The three licence rule must apply in relation to private hire, and is explained in more detail within the Analysis.

Uber Britannia Ltd Private Hire Operator's Licence

13. As noted above, the application to renew the Operator's Licence has been refused. This decision has been appealed and as a result York Licensed Uber drivers may continue to operate in the City.

Petition 1

14. A petition was received by the Council on the 24 November 2017, from York Hackney Carriage Association entitled 'Petition to Remove the £40 Fee for the Safeguarding Training'. The petition has been signed by 286 members of the hackney carriage and private hire trade. The front page of the petition can be found at Annex 1.

15. The petition states that:

'We the undersigned all agree that York City Council are victimising the York licensed trade by demanding with menace the sum of £40 per driver for the compulsory safeguarding training course which means the Council will take from the trades 888 drivers £35,520.00. This was done under threat of dismissal by the York Taxi Licensing Department if the course is not taken or failed. We believe this is intimidation and victimisation as at the same time York Taxi Licensing Department are turning a blind eye to the out of town private hire and hackney carriage drivers who will not be expected to take the course and as usual will not contribute a single penny to the city coffers. We feel that this is the final straw, enough is enough, York City Council and North Yorkshire Police already condone the driving of private hire and hackney carriage out of town vehicles without insurance, i.e. touting for work which is an offence and therefore in condoning the offence it is in itself an offence if there is in the future a serious accident North Yorkshire Police and City of York Council must be made to stand accountable for their lack of action to the ongoing problem.'

Petition 2

16. A petition was received by the Council on the 12 December 2017, from York's Taxi trade entitled 'Petition for Safeguarding Passengers'. The petition has been signed by 1353 members of the hackney carriage and private hire trade. This petition was handed in during the Committee to determine the renewal of Uber Britannia Ltd private hire operator's licence. The front page of the petition can be found at Annex 2.

17. The petition states:

'We the undersigned would like to support the motion for City of York Council to restrict out of town vehicles working in our city, and do not want Uber's licence to be renewed. Uber are a danger to vulnerable members of the public, they seek to take advantage by plying for hire without bookings, charge excessive surcharges and have individuals working for them whom have no knowledge of our city. We would like all drivers who work in York to be registered with a local private hire company or be a hackney driver. We do not want Uber in York'.

Consultation

18. A consultation has not taken place in relation to this report.

Options

19. Option 1

The Executive Member for Housing & Safer Neighbourhoods, in consultation with the Executive Member for Education, Children & Young People, is asked to approve option 1 and determine that:

a) No further action is required in relation to Petition 1: -

Reason:

An ongoing review of the training is already timetabled. On the 13 November 2017, the Gambling, Licensing and Regulatory Committee considered a report relating to the review of driver training. The Committee approved the training and the fee and resolved that driver training would be reviewed by the Committee in six months time (scheduled for 21 May 2018).

b) no further action is required in relation to Petition 2: -

Reasons:

On the 12 December 2017, the Gambling, Licensing and Regulatory Committee considered a report relating to the renewal of Uber Britannia Ltd private hire operators licence. The Committee resolved to refuse this application (which is currently subject to an appeal in the Magistrates Court); and

The Chair and Vice Chair of the Gambling, Licensing and Regulatory Committee, and the Executive Member for Planning and Transport have already written to the two local MPs requesting that they ask the Department for Transport (DfT) to put hackney carriage and private hire reform back on the agenda. The DfT has formed a Taxi and Private Hire Working Group to consider the adequacy and efficiency of legislation and guidance concerning the licensing of taxis and private hire vehicles in England

20. Option 2

- a) that the Gambling, Licensing and Regulatory Committee be asked to consider whether 'no fee' should be levied for providing the training, and determine how the cost should be met, and
- b) that Officer's are asked to write again to the DfT highlighting concerns regarding the number of vehicles working in York that are licensed by other authorities.

21. Option 3

Any combination of Options 1 and 2.

Analysis

Petition 1

22. The Council currently licences the following number of drivers:

- Private hire - 611
- Hackney carriage - 286

By the end of 2020, the intention is for all drivers licensed by this authority to have completed the training on:

- Disability Awareness;
- Child and Adult Safeguarding;
- Sexual Exploitation;
- Equality Awareness;
- Customer Service;

23. The Council is a member of the Combined Authority with the five Authorities within West Yorkshire. One of the matters considered by the Combined Authority is 'taxi licensing'. Licensing Managers from the six authorities are working on implementing joint policies in

a number of areas. The work of the Licensing Managers Group is reported to and overseen by Licensing Committee Chairs from the six authorities. One area that has been discussed is driver training. All five of the West Yorkshire authorities expect new applicants and existing licensed drivers to undertake training as detailed in Annex 3 (as referred to above).

24. Officers are confident that the training package is suitable and the cost proportionate, having regard to the importance of safeguarding and other matters to the role of a licensed driver in providing services to the public.
25. All fees in relation to taxi licensing are set at cost recovery levels. If the taxi licensing budget covers the cost of providing the driver training, driver licence renewal fees would have to be increased accordingly. As driver licences are issued for a period of three years, a majority of which expire in 2019, the service would not be able to recover the costs of paying for the training until 2019, therefore in the financial years 2017/18 and 2018/19 the taxi licensing budget would operate at a loss.

Petition 2 – Uber Britannia Ltd Private Hire Operator Licence Renewal

26. Due to the level of public interest that has arisen regarding Uber vehicles operating in York, a report relating to the renewal of their private hire operators licence was taken to GLR Committee on the 12 December 2017. The Committee refused the application to renew, and pursuant to S.62 of the Local Government (Miscellaneous Provisions) Act 1976 this was on the following grounds:

*‘S.62 (b) any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator’s licence
IN THAT*

Within the last year (22 November 2017) your company admitted in writing to the Licensing Authority that a significant data breach occurred in respect of Uber user data. The compromised data included some personal information of 57 million Uber users around the world, including names, e mail addresses and mobile phone numbers. In reaching their decision, the Committee considered the serious potential consequences of a data breach of this magnitude to those members of the public in York who entrust their personal information to a licensed operator. It is understood that the data

breach is presently being investigated by the Information Commissioner's Office. It is of concern to the Licensing Authority that despite an admission that your company was aware of this serious breach in late 2016, there was a failure to inform the relevant authorities, including the Licensing Authority of this serious breach in a timely manner, contrary to information laws. Such conduct is considered to render the company unfit to hold an operator's licence.

S.62 (d) any other reasonable cause IN THAT

Within the last year there has been an increase in complaints received by the Licensing Authority regarding private hire vehicles driving in York which are operated by your company. The Committee considers this trend is of sufficient concern to indicate that there are issues with the proper management of drivers by your company in its role as operator.

The Licensing Authority of the City of York Council hereby gives notice, under section Part 2 of the Local Government (Miscellaneous Provisions) Act 1976 (1976 Act) as amended by the Deregulation Act 2015 (2015 Act) that your application for the renewal of a Private Hire Operators Licence has been refused under Section 62(b) and (d) of the 1976 Act for the reasons cited above.'

Petition 2 – Out of Area Licensed Vehicles Working Within City of York Council Authority Area

27. Provisions within the 1976 Act, relate to the licensing and working of hackney carriage and private hire vehicles. Provisions within the Town Police Clauses Act 1847, also relate to hackney carriages.
28. Hackney Carriage
Hackney carriage vehicles (taxis) can legally ply for hire, be hailed in the street or rank at a designated taxi rank, within their home authority area as well as being pre-booked. They can also legally work for a licensed private hire operator, either within their home authority area or within another licensing authority area. Officers are aware that taxis licensed by neighbouring authorities are working for licensed private hire operators within our authority area.

29. Private Hire

Private hire vehicles can only undertake pre-booked work, the booking must be taken by a licensed private hire operator. The operator, vehicle and driver must all be licensed by the same licensing authority (known as the 'triple licence rule').

30. There are no provisions, within the 1976 Act, that prevent private hire vehicles licensed by one licensing authority from legally working within another licensing authority area providing the triple licence rule applies, and the work undertaken by the vehicle/driver must be given to them by their licensed operator. The introduction of new technology, such as mobile phone Apps, has increased the provision of out of area working by licensed vehicles.
31. The Deregulation Act 2015 amended the 1976 Act by introducing a provision relating to sub-contracting by private hire operators. S. 55A of the 1976 Act allows a private hire operator licensed in one authority area to sub-contract that booking to a private hire operator licensed within another authority area. Prior to this change in legislation private hire operators were only allowed to sub-contract bookings to an operator licensed by the same authority.
32. Due to the increase of out of area vehicles operating in York, and following a recommendation for the Local Government Association, in November 2016 the Chair and Vice Chair of GLR Committee, and the Executive Member for Planning and Transport wrote to the two local MPs, asking them to ask the Department for Transport to put taxi and private hire licensing reform back on the agenda. The reason for this request is that public safety is paramount, therefore legislation that stipulates a minimum standard for both drivers and vehicles, and that acknowledges modern technology, is required. Both MPs acknowledge our request.
33. It was announced in late summer 2017 that a Task and Finish Group had been appointed by the Minister of State, from the Department for Transport. The working group will consider the adequacy and efficiency of legislation and guidance concerning the licensing of taxis and private hire vehicles in England.

Council Plan

34. The provision of hackney carriage and private hire driver training supports the council plan of a prosperous city for all, where local businesses can thrive.

Implications

35. The direct implication arising from this report are:

- **Financial** – There are no financial implications.
- **Human Resources (HR)** – There are no HR implications.
- **Equalities** – There are no equalities implications.
- **Legal** – There are no legal implications.
- **Crime and Disorder** – There are no crime and disorder implications.
- **Information Technology (IT)** – There are no IT implications.
- **Property** – There are no property implications.
- **Other** – There are no other implications.

Risk Management

36. There are no known risks associated with this report.

Contact Details

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Chief Officer Responsible for the report:

Mike Slater
Assistant Director Planning & Public
Protection

Report
Approved



Date 9 March '18

Specialist Implications Officer(s)

Alison Hartley
Senior Solicitor
Ext: 3487

Wards Affected:

All



For further information please contact the author of the report

Background Papers:

Agenda and minutes for Gambling, Licensing and Regulatory Committee on the 13 November 2017:

<http://democracy.york.gov.uk/ieListDocuments.aspx?CId=606&MId=9986&Ver=4>

Agenda and minutes for Gambling, Licensing and Regulatory Committee on the 12 December 2017:

<http://democracy.york.gov.uk/ieListDocuments.aspx?CId=606&MId=10445&Ver=4>

Annexes

Annex 1 – Petition 1

Annex 2 – Petition 2

Annex 3 – West Yorkshire Authorities training requirements