

<b>REPORT TO:</b>		Resources Overview & Scrutiny Committee	
<b>DATE:</b>		19 <sup>th</sup> July 2016	
<b>PORTFOLIO:</b>		Gareth Molineux, Resources	
<b>REPORT AUTHOR:</b>		Executive Director (Legal & Democratic Services)	
<b>TITLE OF REPORT:</b>		Hackney Carriages – Cross Border Working	
<b>EXEMPT REPORT:</b>	<b>No</b>		
<b>KEY DECISION:</b>	<b>No</b>	If yes, date of publication:	

## 1. **Purpose of Report**

- 1.1 To advise members of the position in respect of “cross border” working by hackney carriages and to invite discussion.

## 2. **Recommendations**

- 2.1 That the Committee notes the report and considers what, if any, recommendations, it wishes to make.

## 3. **Reasons for Recommendations and Background**

- 3.1 The law relating to taxi’s has developed in a piecemeal fashion over many years and is now complicated, archaic and, in some areas, ambiguous. For example, the rules relating to hackney carriages are set out in the Town Police Clauses Act 1847, which includes references to “horse drawn vehicles” and “stage coaches”. The rules relating to private hire vehicles are contained in the Local Government (Miscellaneous) Provisions Act 1976. Neither Act takes account of modern developments, such as mobile phones and the internet, which have had a significant impact of the way taxi operators and their customers interact.
- 3.2 “Cross bordering” is an issue that has caused particular controversy, both nationally and locally. This refers to the practice of hackney carriages licensed in one area (say, Borough A) working as private hire vehicles (i.e. responding to pre-bookings) either exclusively or for a large part of the time in other areas (say, Boroughs B and C, or elsewhere). Hyndburn is one of 88 local authorities in England and Wales that limits the number of hackney carriage licenses it issues, but other local authorities have

chosen to license hackney carriages without restriction. Nationally this has led to a large number of licensed vehicles working in areas many miles away from their licensing authority. Concerns arise as:

- Borough A may have lower, or different, licensing conditions than those imposed by Borough's B and C;
- Borough's B and C cannot undertake enforcement activity in respect of Borough A's vehicles even though such vehicles are operating for a large part of the time in Borough's B and C and
- Borough A may not be able to exercise its enforcement powers effectively in respect of vehicles operating many miles away on other Boroughs.

3.3 Some Council's are now seeking to address this issue by adopting an "Intended Use Policy" following the court's decision in *Newcastle City Council v Berwick upon Tweed Borough Council*. In this case it was held that:

- the intention of the licensing system is that hackney carriages should be licensed by the Council for the area within which the vehicle will generally be used;
- when dealing with license applications, council's can properly consider whether the applicant intends to use the hackney carriage in the council's area
- council's may refuse to grant hackney carriage licenses to proprietors who intend to use the vehicle predominantly outside the council's area either as a hackney carriage or as a PHV (section 37 TPCA 1847) and can require applicant's to submit information in order to ascertain the intended use of the vehicle (section 57 TPCA 1947);

3.4 A number of local authorities in the North West have adopted such policies recently including Rochdale, Rossendale and Pendle.

3.5 It is also worth noting that the Council's in East Lancashire are currently exploring whether, and to what extent, it would be possible to harmonise their convictions policies and licensing conditions. This work is being driven by the CSE agenda, but if progress can be made, it may also partly address concerns about cross bordering as a more consistent approach would be applied to driver fitness and vehicles standards.

#### **4. Alternative Options considered and Reasons for Rejection**

4.1 Not applicable

**5. Consultations**

5.1 The Executive Director (Legal & Democratic Services) wrote to all licensed operators in the Borough to ask them about the impact of cross border working and to ask whether they operated any Hyndburn-licensed hackney carriages in other Boroughs. No replies have been received to date.

**6. Implications**

<b>Financial implications (including mainstreaming)</b>	None.
<b>Legal and human rights implications</b>	These are set out in section 3 of the report
<b>Assessment of risk</b>	None
<b>Equality and diversity implications</b> <i>A <a href="#">Customer First Analysis</a> should be completed in relation to policy decisions and should be attached as an appendix to the report.</i>	None identified.

**7. Local Government (Access to Information) Act 1985:  
List of Background Papers**

None

**8. Freedom of Information**

8.1 The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.