

# Crawley Borough Council

## Report to Overview and Scrutiny Commission

4 February 2019

### Impact and implementation of the Deregulation Act 2015

Report of the Head of Community Services, HCS/11

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#### **1. Purpose**

- 1.1 On 3 September 2018, Councillor Fiveash submitted a Scrutiny Suggestion form requesting that the Overview and Scrutiny Commission undertake a review of the impact and implementation of the Deregulation Act 2015. Given the work being undertaken at a national level and legislation being progressed, Members recommended that a report be produced for the Commission outlining the information available, as opposed to a full scrutiny review.
- 1.2 This report appraises Members of the impact of the changes to taxi licensing controls that have arisen further to the implementation of the Deregulation Act 2015 and how this may affect the local trade together with observing those actions being undertaken at a national level plus the legislation currently being progressed through Parliament.

#### **2. Recommendations**

- 2.1 To the Overview and Scrutiny Commission:  
  
That the Commission notes the report.

#### **3. Reasons for the Recommendations**

- 3.1 Under the Scrutiny Procedure Rules, it was requested that a report be provided to the Overview and Scrutiny Commission on the impact and implementation of the Deregulation Act 2015 together with any changes or proposals for future service provision.

#### **4. Background**

- 4.1 Both Hackney Carriages and Private Hire vehicles, their drivers and licensed operators (the trade) are subject to controls by way of the Local Government (Miscellaneous Provisions) Act 1976.
- 4.2 As a result of the Deregulation Act 2015 a number of changes were introduced to the manner in which the trade is now regulated by the legislation listed in 4.1 above (the legislation) as follows:
  - a drivers licence should be issued for a period of 3 years
  - a private hire operator's licence should be issued for a period of 5 years

- private hire operators are allowed to sub contract bookings to other licensed operators outside of the Council's area.
- 4.3 The legislation always permitted the Council to issue drivers and operators licences for longer periods on request and this practice has been in place in Crawley for a number of years and this was therefore possible to achieve within the current practice and policy. The legislation permits the Council to issue a licence for a shorter time period if there are concerns about a driver and this is also done as necessary. The Licensing Service has also given applicants a choice concerning the duration of licences as a 5 year private hire operator's licence would be very costly for operators with high numbers of vehicles.
- 4.4 On the 1<sup>st</sup> October 2015 The Deregulation Act 2015 inserted Section 55A & 55B into the legislation with the effect that any licenced operator can subcontract bookings to any other licenced private hire operator on condition that the sub-contracted booking is accepted, to another licensed operator outside of the district where they held a license.
- 4.5 Since the implementation of the Deregulation Act 2015 private hire operators throughout the Country have been using the Deregulation Act 2015 to subcontract bookings to other operators including operators who may be licenced by authority's miles away for their licenced area. This also includes Uber vehicles in certain areas.
- 4.6 Some Private Hire Operators in Crawley have also applied for operator licences in other areas such as Mid Sussex, Reigate and Banstead, Wealden & Rother and Croydon (Transport for London (TfL)). These operators have opened offices in the said other areas to allow them to subcontract to their own company using vehicles and drivers also licensed in the same place and some Crawley bookings are being completed in this manner.
- 4.7 The Licensing Team have worked in partnership with Licensing Staff in the cited other authorities to check that their operators are complying with the legislation, for example having staff in place to accept subcontracted bookings. These investigations revealed that the offices being used to sub-contract work were not manned at any time.
- 4.8 As a result of the partnership working the Licensing Team and TfL were in the process of exploring if action could be taken against operators thought to be in contravention of the legislation. However, on 25<sup>th</sup> May 2017 at High Wycombe Magistrates Court, Milton Keynes Council brought a prosecution against Skyline Taxis and Taxis and Private Hire Ltd and its managing director. The District Judge sitting in this case concluded that human intervention was not required when bookings are subcontracted and therefore there was no case to answer. This judgement therefore suggests that if a private hire operator opens an office in another district all that is required is a computer to which can be used to accept the bookings which can then be sub-contracted without the use of a controller and those offices can be consequently be unmanned.

## **5. Description of Issue to be resolved**

- 5.1 As a result of the Deregulation Act 2015 private hire vehicles from other licensed areas are able to complete bookings within Crawley by way of sub-contracting.
- 5.2 This practice may be affecting the local taxis trade reducing the amount of work available.

- 5.3 As well as reducing the amount of work available for the local licenced taxi trade other authorities who issue licences to the trade may have different standards to those in place in Crawley. This may mean that vehicles may not be up to locally adopted high standards in regards to quality or public safety controls.
- 5.4 A number of other local authorities have similar concerns and problems and Central Government has suggested further amendment to the legislation requiring any journey under sub-contracted booking to either begin or end in the licensing authority where the licence was issued. This may also have some problems regarding school contracts for example.

## **6. Information & Analysis Supporting Recommendation**

- 6.1 The changes to the legislation and subsequent case law currently prevent any action being taken as the practice of sub-contracting to another licensed operator outside of Crawley using a computerised system is not unlawful.
- 6.2 The Department for Transport have recently published a report by the Task and Finish Group on Taxi and Private Hire Vehicle Licensing with a number of recommendations including details for a national set of conditions concerning hackney carriages and private hire vehicles, support for ending or starting journeys in the area where the licence is granted and higher safeguarding standards. The proposed conditions are at least as rigorous as the current controls in the Council's Private Hire Vehicle and Hackney Carriage Policy and if these are adopted nationally will resolve the issue of varying standards between local authorities being applied. It is important to acknowledge the work currently being undertaken at a national level, publications together with the bill currently being considered by [Parliament](#) (also see background papers).

## **7. Implications**

- 7.1 There are no foreseen direct financial or staffing implications for the Council.
- 7.2 Locally licensed private hire operators are entitled to sub-contract work to other licensed operators outside the borough and the Council are not able to take action to prevent this happening.
- 7.3 The local trade may be suffering financially due to drivers from other areas fulfilling local bookings and the Council should lobby Central Government for further amendments to the legislation to stop this practice.
- 7.4 The adoption of the proposed national conditions concerning taxi licensing would resolve many of the concerns about varying standards but there are no current time scales for this to happen.

## **8. Background Papers**

[Government Task and Finish Group Report on Taxis and Private Hire Vehicle Licensing House of Commons Library \[Briefing Paper\] Taxi and Private Hire Vehicle Licensing in England – 12 November 2018](#)  
[Milton Keynes Council v Skyline Taxis et al High Court Judgement](#)

Report author: Tony Baldock, Environmental Health and Licensing Manager  
Tel: 01293 438220 - Email: [tony.baldock@crawley.gov.uk](mailto:tony.baldock@crawley.gov.uk)