



Cabinet

9 January 2018

Proposed Nottinghamshire Joint Enforcement Protocol for Private Hire and Hackney Carriage Vehicles and Drivers

5

Report of the Executive Manager - Neighbourhoods

Cabinet Portfolio Holder for Community and Leisure Councillor D J Mason

1. Summary

- 1.1. This report details the proposed changes to Taxi Licensing enforcement across Nottinghamshire. The current legislation, the Local Government (Miscellaneous Provisions) Act 1976 only allows authorised Officers from the local authority who have licensed vehicles (either Hackney Carriage or Private Hire) and drivers to take action against them. This causes problems in other local authority areas when a vehicle is seen to be operating illegally and enforcement cannot be carried out by their officers.
- 1.2. It is proposed that Rushcliffe Borough Council follow an agreed enforcement protocol drawn up by Nottinghamshire Councils and that officers are authorised to take enforcement action on other vehicles and drivers licensed by protocol partner authorities.

2. Recommendation

It is RECOMMENDED that

- a) The proposed joint enforcement protocol be considered and approved (see Appendix A)
- b) The Executive Manager Neighbourhoods to be granted delegated powers to sign the Protocol on behalf of the Council and authorise Rushcliffe Borough Council officers accordingly.

3. Reasons for Recommendation

- 3.1. The development of this Joint Enforcement Protocol for Private Hire and Hackney Carriage Vehicles and Drivers is a very positive step in maximising the signatory Council's enforcement powers in this important and high profile industry.
- 3.2. A decision by the Council to participate in the protocol will send out a strong collaboration message along with other Nottinghamshire Council's and will allow officers to take appropriate enforcement action in a more consistent and coordinated manner.

4. Supporting Information

- 4.1. The current taxi legislation which was introduced in 1847 and 1976 is outdated and for enforcement it does not provide all the tools necessary to regulate the modern taxi industry. For example approximately two years ago, the Government introduced de-regulation allowing Private Hire Operators to cross-border hire; this has brought more vehicles that are licensed in other areas, into the County and City areas. Recently at a national level there have been a number of attempts to update and modernise the legislation, but to date this has not occurred.
- 4.2. Building on earlier positive joint work such as the shared Relevant Convictions Policy lead by Rushcliffe BC and to help respond to concerns about the limitations of the current legislation Nottinghamshire Councils have again worked together to develop a Joint Enforcement Protocol for Private Hire and Hackney Carriage Vehicles and Drivers. If agreed this Protocol would facilitate cross border enforcement activity by allowing officers to require inspection of licence/badges under Section 53 (3) Local Government Miscellaneous Provisions Act 1976, inspect and test vehicles and suspend if not satisfied as to fitness under Section 68 and provide for the offence of obstruction of the authorised officer under Section 73.
- 4.3. In addition to all of the Nottinghamshire Authorities, Councils in neighbouring Counties have also indicated that they may sign up to the protocol thus building on the public protection arrangements. Furthermore other Councils such as Wolverhampton City Council, who at present have over 5,000 licensed Private Hire vehicle operating outside of their boundary, intend to adopt the protocol as many of their vehicles operate in the County and Nottingham City areas.

5. Other Options Considered

- 5.1. The current situation could remain, however this would perpetuate the scenario of officers being unable to enforce existing legislation on vehicles and drivers who may be operating illegally within the Borough.

6. Risk and Uncertainties

- 6.1. Due to the nature of the legislation the protocol is limited to taking action in respect of drivers and their vehicles.

7. Implications

7.1. Finance

Enforcement activity in connection with the Protocol will be contained within existing resources.

7.2. Legal

The Borough Solicitor has been consulted on the proposed protocol and has given no objections.

7.3. Corporate Priorities

This enforcement protocol assists the Council to meet its Corporate Priorities. The improved enforcement measures and greater public protection will help to support the priority of maintaining and enhancing residents' quality of life and enable the delivery of efficient high quality services

For more information contact:	Dave Banks Executive Manager – Neighbourhoods. 0115 914 8438 dbanks@rushcliffe.gov.uk
Background papers Available for Inspection:	None.
List of appendices (if any):	Appendix A – Proposed Joint Enforcement Protocol for Private Hire and Hackney Carriage vehicles and drivers

**CROSS BORDER
ENFORCEMENT**

OPERATIONAL PROTOCOL

**PRIVATE HIRE & HACKNEY
CARRIAGE VEHICLES & DRIVERS**

**Nottingham City Council
Nottinghamshire District Councils**

Date & Version 271117 v5
Amendments:

1. APPLICATION AND BACKGROUND

- 1.1 This Operational Protocol ("Protocol") applies to the Partner Council's listed in the Schedule attached. The purpose of this Protocol is to facilitate the discharge of the Delegated Powers by Authorised Officers of the Partner Councils in relation to Private Hire and Hackney Carriage Vehicles and Drivers. The Protocol encourages a collaborative working partnership between all Partner Councils
- 1.2 This Protocol is intended to bind a Partner Council from the date of their signature hereto as reflected in Appendix 1 and will cease to apply to a Partner Council either by the withdrawal of the Delegated Power in accordance with paragraph 1.3 below or upon the expiry of 3 months written notice given to all other Partner Council(s) which ever shall occur first.
- 1.3 Notwithstanding the terms and conditions of this Protocol, it does not prejudice the right of any Partner Council to withdraw the Delegated Powers at any time or to exercise the Delegated Powers concurrently. However each Partner Council undertakes not to withdraw the Delegated Powers unreasonably.
- 1.4 For the avoidance of doubt, this Protocol shall cease to bind a Partner Council if the Delegated Functions ever become the responsibility of the Executive of that Council.

2. INTERPRETATION

For the purposes of this Protocol the following words or phrases shall have the following meaning:

Authorised Officers	Officers authorised by a Partner Council under section 80 of the 1976 Act
Contact Officer	a designated officer of a Partner Council for the purpose specified at Clause 3.3 of this Protocol.
Controlled District	an area in relation to which a resolution has been passed by a district council under section 45 of the 1976 Act applying Part II of that Act
Delegated Powers	the powers identified in Appendix 2
Enforcement Action	any action to be taken by a Partner Council as a result of information

	obtained from the exercise of the Delegated Powers of whatever nature
Hackney Carriage Vehicle	a vehicle licensed under section 37 of the 1847 Act
Hackney Carriage Driver	a driver licensed as such under section 46 of the 1847 Act
Licensing Partner Council	the Partner Council which has issued the licence for the vehicle/driver concerned
Partner Council	any Council listed in Appendix 1 to this Protocol
Personal Data	any information relating to an identified or identifiable natural person (data subject); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person
Private Hire Vehicle	a vehicle licensed under section 48 of the 1976 Act
Private Hire Driver	a driver licensed as such under section 51 of the 1976 Act
1976 Act	the Local Government (Miscellaneous) Provisions Act 1976
1847 Act	the Town and Police Clauses Act 1847

3. WORKING ARRANGEMENTS

- 3.1 Authorised Officers may discharge the Delegated Powers in respect of Private Hire and Hackney Carriage Vehicles and Drivers licensed by any other Partner Council whilst such a vehicle and/ or driver are in the Controlled District of the Authorised Officer.
- 3.2 Each Partner Council will designate a Contact Officer to whom information, concerns and intelligence gathered in relation to any of its licensed Private Hire and Hackney Carriage Vehicles or Drivers can be passed by secure means, digitally or otherwise and in compliance with section 4 of this Protocol.
- 3.3 Where Enforcement Action is deemed necessary as a result of an exchange of information under 3.2 above the Partner Council supplying that information will provide all reasonable and necessary assistance to the Licensing Partner Council, including, if necessary the provision of witness statements and attendance at court.
- 3.4 In relation to the exercise of the Power under section 53 of the 1976 Act, an Authorised Officer requiring a hackney carriage/private hire driver to produce his driver's licence for inspection at the principal offices of their Licensing Partner Council shall both:-
- a) warn the driver of the criminal offence committed if there is a failure to comply with his request, without a reasonable excuse and
 - b) notify the Licensing Partner Council as soon as reasonably practicable, of the request and provide the relevant details of the action in writing.
- 3.5 In relation to the exercise of the Power under section 68 of the 1976 Act:-
- a) if an Authorised Officer is not satisfied as to the fitness of a hackney carriage or private hire vehicle they may suspend the vehicle licence until such time as an Authorised Officer of the Licensing Partner Council is so satisfied as to its condition.
 - b) If an Authorised Officer suspends the vehicle licence written notification of the suspension must be given by the Authorised Officer to the Licensing Partner Council as soon as practicable as well as to the proprietor of the vehicle.
- 3.6 Enforcement of the Power under section 68 of the 1976 Act: rests with the Licensing Partner Council which authorised the officer.

3.7 Where a joint operation between Partner Councils is being carried out Authorised Officer's remain at all times the responsibility of the Partner Council by whom they are authorised and will provide all reasonable and necessary assistance to any other Partner Council involved in the operation. The Contact Officers of the Partner Councils involved in the joint operation will agree which Authorised Officer will be appointed to oversee the operation. Risk assessments should be carried out by the Lead Authority in any operation and agreed in advance with the relevant Partner Councils.

3.8 Unless there is prior agreement between Partner Councils no reimbursement will be made by one Partner Council to another for time spent/ cost incurred by any Authorised Officer in the exercise of any of the Delegated Powers pursuant to this Protocol.

3.9 Partner Councils will be solely responsible for the Health and Safety of their own Authorised Officers and provide training, support and assistance suitable to the role as required.

4. **TRANSER OF INFORMATION/INTELLIGENCE BETWEEN PARTNER COUNCILS**

4.1 Information and intelligence shared by Partner Councils should be concise and accurate and provided in a timely manner to the relevant Contact Officer. Personal data should only be shared for a specific lawful purpose or where appropriate consent has been obtained.

4.2 This agreement does not give licence for unrestricted access to information another partner may hold. It sets out the parameters for the safe and secure sharing of information for a justifiable need to know purpose.

4.3 Partners are responsible for ensuring that their organisational and security measures protect the lawful use of information shared under this agreement.

4.4 partners will ensure that a reasonable level of security is applied to all data held appropriate to the level of risk and in accordance with the data protection principle 7 and any similar principle in successor legislation.

4.5 Partners employees processing information shared under this agreement are expected to be trained to a level that enables them to undertake their duties confidently, efficiently and lawfully.

4.6 Each partner has the power to audit the other to ensure compliance with the agreement.

4.7 Partners should have procedures in place to report misuse, loss, destruction, damage or unauthorised access, suspected or otherwise,

of information. The partnership organisation originally supplying the information should be notified of any breach of confidentiality or incident involving a risk or breach of the security of information supplied under this agreement.

4.8 Personal data shall not be transferred to a country or territory outside the EEA without an adequate level of protection for the rights and freedoms of the data subject in relation to the processing of personal data.

4.9 All Partner Councils agree:

- a) To process Personal Data and information fairly and lawful;
- b) To keep the Personal Data confidential at all times and ensure it is used only for the purpose intended.
- c) The Personal Data held will be secured and disclosed solely for the discharge of the defined delegated powers or as otherwise required by law. The data must and will not be used for any other purpose.
- d) Requests for information received from an individual or organisation not party to this Protocol, whether for Personal Data or other information, shall be answered by the Partner Council receiving such a request in accordance with the relevant legislation, but before making a decision as to disclosure the relevant party it shall first consult such other Partner Council(s) as may be required.
- e) Personal Data shall only be accessed or disclosed by or to Authorised Persons.
- f) For the avoidance of doubt Personal Data held by any Partner Council is held by that Council as data controller and each Partner Council agrees to fulfil all its obligations under the Data Protection Act 1998 and successor legislation including the General Data Protection Regulation.
- g) Any request for information by a Partner Council to another shall be answered promptly where such request is for the purpose of meeting or delivering the discharge of the Delegated Powers; but any such request will only be answered where to do so does not breach the Data Protection Act 1998 and successor legislation including the General Data protection Regulation, the Freedom of Information Act 2000; and/or other legislation
- h) Personal Data shall be retained for no longer than 12 months after which it shall be securely destroyed or, in the case of a prosecution by the Licensing Partner Council, until that prosecution has been discharged.

6. **RESPONSIBILITIES AND ACTIONS OF PARTNER COUNCIL'S**

- 6.1 The employing Partner Council shall be liable for the actions of the Authorised Officers within its employ and shall take all reasonable steps to ensure the competence of those persons in carrying out their functions and that they comply with legislative requirements and the spirit of this Protocol.
- 6.2 Information/intelligence provided between Partner Councils shall be used for the purpose intended and shall not be divulged to third parties unless to do so would be lawful.

7. **SIGNATORY PARTNER COUNCILS**

- 7.1 Before signing this Protocol each Partner Council will provide written evidence to each other Partner Council of its resolution in accordance with its constitution confirming the delegation of the Delegated Powers to the other Partner Councils pursuant to section 101 of the Local Government Act 1972 and its appropriate authority to enter into reciprocal arrangements for the exercise of those Delegated Powers.

NOTTM LOGO

Nottingham City Council

Name: Andrew Errington

Position: Director – Community Protection

Signature..... Date:
On behalf of Nottingham City Council Community Protection



Rushcliffe Borough Council

Name:

Position:

Signature.....
On behalf of Rushcliffe Borough Council

Date:

DRAFT

Appendix 1

LIST OF COUNCILS

Ashfield District Council

Bassetlaw District Council

Broxtowe Borough Council

Gedling Borough Council

Mansfield District Council

Newark & Sherwood District Council

Nottingham City Council

Rushcliffe Borough Council

Appendix 2 - DELEGATED POWERS

Local Government (Miscellaneous) Provisions Act 19726

- S53(3)** produce drivers badge/licence for inspection
- S68** to inspect and test vehicles at reasonable times and suspend the licence if not satisfied as to their fitness.
- S73** obstruction of authorised officer