

PROPOSALS TO DEAL WITH EXCESSIVE LEVELS OF CROSS-BORDER HIRING AND ITS IMPACT ON MK RESIDENTS AND TAXI LICENSING

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Executive Summary

Milton Keynes has experienced a significant increase in Private Hire Vehicles (PHVs) licensed by other councils working within its district boundary over the past 2-3 years. Recent results obtained from the independent Unmet Demand Survey and the Council's Taxi Enforcement Team show that 50% of PHVs working in Milton Keynes are now licensed by neighbouring districts. During the same period the number of PHVs in the UK has increased by 14% whereas the number of vehicles licensed by the Council has fallen by 20%. The fundamental problem for the Council is that with the number of out of district vehicles growing, and the number of Milton Keynes PHVs falling, the impact of the Council's Policy in protecting all Milton Keynes residents is diminishing. In effect, councillors from neighbouring local authorities are setting the driver and vehicle standards for 50% of licensed vehicles working in Milton Keynes when in fact these standards should be set by councillors elected by Milton Keynes residents. This position is supported by recent enforcement results (2018) which show that 15% of the Council's licensed vehicles (that were checked) were defective whereas 24% of non- Milton Keynes licensed vehicles (that were checked) were defective. This report therefore sets out proposals to amend the Council's Taxi Policy in an attempt to reverse this trend in order to have more vehicles and drivers licensed by the Council and therefore subject to its high policy standards.

1. Recommendations

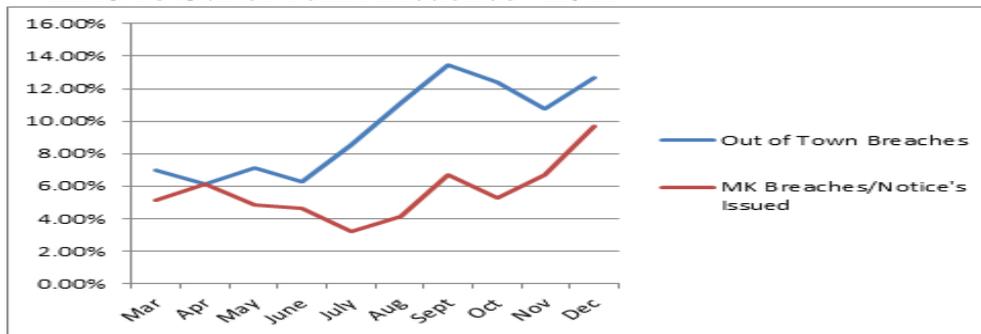
- 1.1 That the Cabinet be recommend to abolish the current fee for the Driver Induction and Knowledge Test for all new applicants and replace the Driver Induction and Knowledge Test with a new procedure known as Driver Assessment Suitability (DAS). (Option 3)
- 1.2 That the Cabinet be recommend to approve giving discretion to Council officers, in certain situations involving drivers already licensed by neighbouring councils, with regard to the requirement for them to undertake the Driver Induction and Knowledge Test, or Driver Assessment Suitability if 1.1 above is approved. (Option 5)
- 1.3 That the Cabinet be recommend to remove the restriction that vehicles cannot have rear tinted windows by amending Condition A2.52 of Appendix A of the Taxi Licensing Policy to read: "*Side and rear windows will not have a visual light transmission restriction but they can only be installed by the vehicle's manufacturer. Adhesive window tints of any shade are not accepted for any licensed vehicle.*" (Option 6)

2. Issues

Background

- 2.1 Milton Keynes has experienced a significant increase in PHVs licensed by other councils working within its district boundary over the past 2-3 years. Recent results obtained from the independent Unmet Demand Survey and the Council's Taxi Enforcement Team show that over 50% of PHVs working in Milton Keynes are now licensed by neighbouring districts. In regard to these out of district vehicles, 67% of them are used by drivers who live in Milton Keynes.
- 2.2 In the year ending December 2017, the Council's Taxi patrol inspected 5420 vehicles of which 2537 (47%) were licensed by the Council and 2883 (53%) were licensed by non- Milton Keynes authorities. Results show that 9.5% of the Council's vehicles checked were defective whilst 12.5% of non-MK vehicles checked were defective.

MKC vs Out of Town Breaches - 2017



- 2.3 In regard to unlawful plying for hire, which poses a greater risk when there are increasing numbers of PHV from outside districts, the Council has undertaken 75 investigations/prosecutions during this period which comprised of vehicles/drivers licensed by the Council (17%), Aylesbury Vale District Council (25%), South Northamptonshire Council (51%), Rosendale Borough Council (3%), Bedford Borough Council (3%) and Daventry Borough Council (1%).
- 2.4 The reasons why the number of out of district vehicles has significantly increased in recent years in Milton Keynes can be attributed to:
- 2.4.1 The implementation of the De-regulation Act on 1 October 2015. This allowed PH Operators to sub-contract to other PH Operators across district boundaries without the need to involve the customer. The net result being that vehicles licensed by other councils could wait for work in Milton Keynes more easily as they could accept bookings from their Operators (who have now obtained multiple Operator licenses) via modern 'cloud' communications from one set premises.
 - 2.4.2 The Council significantly increased its Taxi Licensing Fees in May 2016. The cost of a Council licence is now significantly more than some neighbouring councils.
 - 2.4.3 The view by some drivers/proprietors/operators that the Council's Taxi policy and conditions are too stringent and inflexible as:
 - (a) all new drivers must undertake a costly Induction and Knowledge Test;

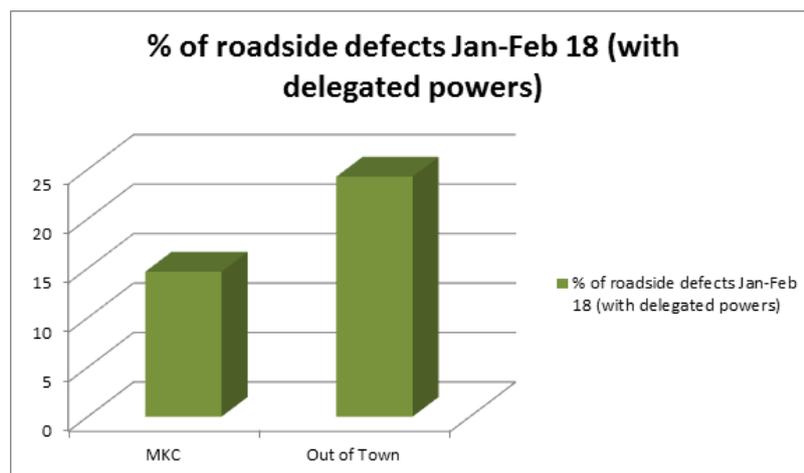
- (b) vehicles must be tested 3 times per year;¹
- (c) all vehicles must adhere to a strict rear tinted window condition; and
- (d) fees are too high.

2.4.4 Lower costs and less administrative requirements can be found at some neighbouring councils.

2.5 Councillors and Council Officers have been aware of the growing problem of outside vehicles since early 2016 and have undertaken the following measures:

2.5.1 High Court challenge of the De-regulation Act 2015. The Council took action against an Milton Keynes PH Operator in 2016 for using an South Northamptonshire Council vehicle to pick up an Milton Keynes resident via the 'cloud' booking system. The High Court concluded that as long as the firm had an South Northamptonshire Council Operator licence then the vehicle/ driver booking record did not have to be physically created/ despatched from the South Northamptonshire Operator premises as it all could be done via 'the cloud' and the Milton Keynes Premises.

2.5.2 Delegated Powers. The Council obtained delegated powers from South Northamptonshire Council (2007) and Aylesbury Vale District Council (2018) so formal legal action is now being taken by the Council's officers against defective vehicles licensed by those councils. During January/February 2018, 1001 vehicles were inspected with 204 defects found. Of these defects 15% were Milton Keynes and 24% were non- Milton Keynes.



2.5.3 Increased taxi patrol and prosecutions. In 2015 two full time patrol officers and a Senior Practitioner were employed to concentrate solely on taxi enforcement matters. In 2017 sixteen enforcement operations were convicted involving plying for hire and vehicle safety checks with Thames Valley Police/ Aylesbury Vale District Council / South Northamptonshire Council.

2.5.4 Letters to the Minister for Transport. The Council outlined its concerns about cross-border hiring in October 2017 and then requested further

¹ This matter was considered by the Regulatory Committee and reduced to 2 vehicle tests per year in May 2017.

clarification of the High Court's interpretation of the De-regulation Act in December 2017. In January 2018 the Minister responded in support of the High Court's decision which meant that legally there was nothing further the Council could do about out of town vehicles being permanently based in Milton Keynes and accepting bookings from Aylesbury Vale District Council / South Northamptonshire Council Operators based in Milton Keynes ²

2.5.5 Meetings with Aylesbury Vale District Council / South Northamptonshire Council. Milton Keynes councillors and officers met with South Northamptonshire Council councillors and officers in May 2017 and agreed to increase joint enforcement activities. Milton Keynes councillors and officers met with Aylesbury Vale District Council councillors and officers in April 2017 and agreed to delegated powers.

2.5.6 New Operator Conditions. Agreed by Regulatory Committee in 2016 to ensure that operators only use/advertise local Milton Keynes phone numbers and clearly advise customers which Council licence's their allocated vehicle.

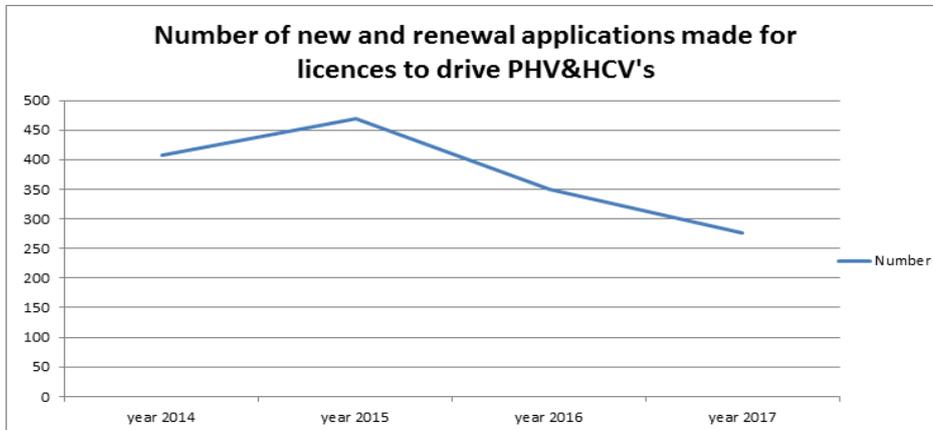
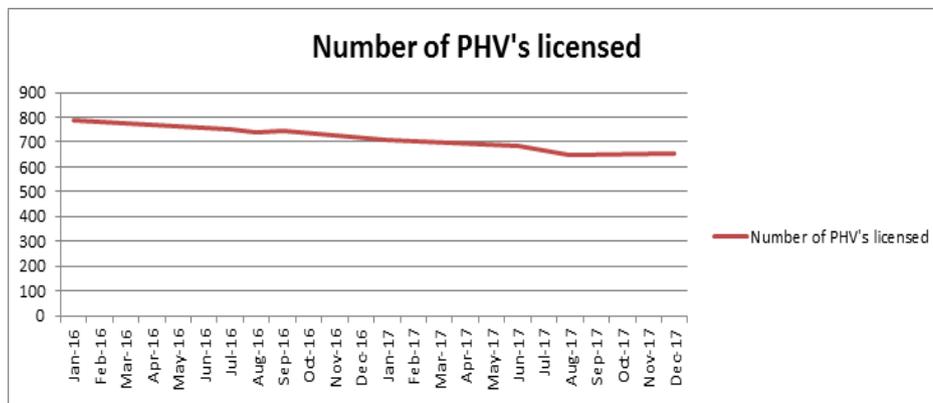
2.6 Diminishing effect of the Council Taxi Licensing Policy

Whilst these measures have had some success in reducing the incidence of plying for hire and in identifying defective vehicles, they have not been able to reduce the growth of outside vehicles working in Milton Keynes. The fundamental problem for the Council is that out of district vehicles do not come under the control of the Council's Taxi Policy. In effect, councillors from neighbouring councils are setting the standards for 50% of licensed vehicles working in Milton Keynes and picking up Milton Keynes residents. Although the intention of the Council in adopting certain policy requirements in 2015 was to improve standards across the board, the effect of the Deregulation Act has had an effect that was not anticipated at the time. Milton Keynes residents have a 1 in 2 chance of being in a vehicle that has not been formally inspected by the Council's officers which is a concern given the number of defective vehicles as outlined in sections 2.2 & 2.5.2 of this report. At present Milton Keynes public are being protected by the Council's enforcement officers only in respect to the vehicle standard of out of town vehicles.

2.7 Impact on the Council Taxi Licensing Service

In addition to its impact on the overall effectiveness of the Council's Taxi Licensing Policy, the growth of cross-border hiring in Milton Keynes has had a significant impact on the Council's Taxi Service. From July 2015 to December 2017 the Council has seen a 20% reduction in the number of licences that it currently issues (162 fewer PH vehicles and 194 fewer PH drivers). As a result the Council's taxi income forecast has been reduced by £100k and 4.2 permanent positions were made redundant in 2016/17 (1.5 vehicle examiners, 1.7 enforcement officers and 1 licensing administrator). Additionally 2.5 posts (0.5 enforcement and 2 licensing administration) were downgraded and are currently unfilled.

² The position has been made even clearer by the recent High Court case involving Knowsley Borough Council v Uber/Delta Cars 2017. The High Court ruled that the Council could not condition its private hire drivers to work predominantly in their home Authority.



2.8 Should the Council's tax income forecast continue to drop then further redundancies may be necessary. This will have a negative effect on service level and public safety which could also result in further driver attrition. Job reductions would result in sacrifices being made on vehicle testing capacity, enforcement patrols and enforcement operations in the first instance. The result of this is that the present level of safety afforded to the public by the checks on out of town vehicles will reduce. In addition, the Council has an 'in house' vehicle testing facility which is regarded as the most effective way to test licensed vehicles to a high standard. It appears that this system is not used by other neighbouring councils who 'outsource' this role by using cheaper private MoT firms. Council officers much prefer 'in house' testing as quality control is greater and therefore Milton Keynes residents are safer. However, given the high costs involved in offering this service (qualified/experienced MoT examiners, additional workshop overheads and rent, hydraulic ramps, ongoing maintenance etc) it would be difficult to justify the continuation of this service should the number of licensed vehicles continue to fall.

3. Options

Whilst the Council has undertaken a number of measures to deal with cross-border hiring since 2015, Council officers believe that further measures can be and should be taken to address this continuing tide to improve the long term safety of Milton Keynes residents. Officers have consulted with the taxi trade about these matters. This report will now outline a series of options for the Committee to consider.

3.1 Option 1 – Do nothing / Leave the current situation to market forces (not recommended)

The problem with this approach is that the Council would not know what the number of licensed vehicles would eventually be. Based on current trends the

income for the Taxi Licensing Service will likely diminish further thus reducing resources for enforcement and Milton Keynes becoming even more of a haven for out of district vehicles that do not comply with the Council's Policy. As stated earlier in the report (sections 2.2 and 2.5.2), non- Milton Keynes vehicles are more likely to be defective than Milton Keynes licenced vehicles.

3.2 Option 2 - Increase Taxi Licensing fees (not recommended)

This was last done in 2016 but has had a clear negative fiscal impact and it is highly unlikely that any further increases would benefit the service. The likely impact of any further increases in fees would be new/existing licence holders continuing to go elsewhere.

3.3 Option 3 – Abolish the Fee for the Driver Induction and Knowledge Test (recommended)

Bringing the Council's licensing fees into line with neighbouring Councils will make the Council more competitive and could provide an incentive for new drivers to apply to the Council. Whilst this was a consideration for the 2018/19 budget it was decided not to do so due to the risk of income reducing even further as drivers continue to be licensed elsewhere due to lower administrative requirements. Furthermore, as recorded in the fees report considered by Committee in December 2017, the trade are not solely motivated by the cost of a licence and therefore fees would have to be dramatically lowered to be effective. However, after giving this matter further consideration and taking into account the views of the three major private hire firms in Milton Keynes, it is now the view of Council officers that the Driver Induction and Knowledge Test fee (£200) should be removed for all new applicants³. Whilst this Option is supported by Operators Skyline, Speedline, Bounds and MK Private Hire Association; the MK Taxi Association (Hackney Carriages) and Airport Express MK did not support this option.

As part of Option 3 Council Officers see the need to merge the two part Driver Induction and Knowledge Test procedure into one procedure to be known as Driver Assessment Suitability (DAS). DAS will involve an applicant driver being formally assessed individually by Council Enforcement Officers (and Senior Officers) on Safeguarding, Disability Awareness, Locations, Highway Code, English and Writing Skills and Taxi Legislation. As Taxi Enforcement Officers often deal with licence holders on the ranks/train station etc when enforcing law and Council conditions, it is considered best practice that these officers assess the suitability of applicants as to whether they can comply with the Council's policy. By merging the Induction and Knowledge procedure and conducting assessments on a one to one basis, Council officers believe that the suitability assessment of applicants will now be more effective and efficient.

3.4 Option 4 - Increase income by investing in an MoT Service (not recommended as part of this solution)

An MoT service was run by the Council until 2013 however it was decided by the Council that the private sector should only offer this type of service. Council officers are currently looking at a proposal to re-introduce this service, however a capital investment of £40-50K is required and there is no guarantee that licensed drivers or the public will use the service to any significant degree and repay the investment. As the Council is already charging drivers for the

³ This would not apply to existing drivers who would have to pay the £100 re-sit fee if instructed by Council Officers to undertake the Driver Induction & Knowledge (or DAS) as a result of being in breach of Council Policy etc.

test of their vehicle the extra cost to them would be relatively small and any extra income would not be significant. This option may be the subject of a further Regulatory Committee report in 2018 and will therefore not form part of the recommendations contained in this report.

3.5 Option 5 - Allow Council Officers to exercise a discretion in regard to the Driver Knowledge and Induction Test⁴ (recommended)

Council Officers have consulted our largest PH Operators and asked why they use so many vehicles not licensed by the Council. Operators said they would consider using more Council's licensed vehicles however due to the Council's Knowledge and Induction Test drivers were obtaining licenses from other areas which were easier and cheaper. They stated that while they accepted new drivers needed to have knowledge of taxi legislation and policy, the Council should consider an exemption for drivers who can demonstrate they have 12 months experience of working in Milton Keynes without any problems and are therefore 'fit and proper'.

Council officers have therefore considered the supportive views of this option by Speedline, Skyline, Bounds and the MK Private Hire Association; and also the less supportive views of the MK Taxi Association (Hackney Carriages) and Airport Express MK. Officers believe that an exemption (or "waiver") from the Driver Induction and Knowledge Test⁵ for experienced drivers (1 year or more) can be made without undermining the Council's Policy. These drivers have already been determined as 'fit and proper' by their respective councils and obtained relevant experience which arguably surpasses most of the information on the induction and are familiar with the local area. This exemption follows a similar exemption that the Regulatory Committee approved in 2016 in regard to the Driver Test (which is waived until such time as an existing driver breaches conditions/policy and is then enforced). If an exempted driver is in breach of the Council's policy then officers would take remedial action (which would not be possible if they were licensed by an outside Council) and either insist on the Induction and Knowledge⁶, or use other options available to deal with licensed drivers (penalty points, driving test, suspension/revocation). As a result, the public of Milton Keynes would be safer knowing that the Council is regulating drivers and vehicles, rather than other district councils. Officers would still apply the Council's Policy in respect to criminal convictions and driving endorsements and officers consider this to be the most important standard set by the Council's Policy. Any driver who has been licensed by another authority who does not meet this Council's standard in this regard will not be licensed.

It is the view of Council Officers (supported by three Milton Keynes PH Operators and Milton Keynes Private Hire Association) that this change will create an incentive for drivers licensed by neighbouring districts to be licensed by the Council. Once these drivers are licensed by MKC then they will be subject to the full regulatory control of this Council's Taxi Licensing Policy which will benefit Milton Keynes residents. The Council will also receive the licensing income which will ensure the sustainability of the taxi licensing service including enforcement operations.

⁴ Or Driver Assessment Suitability if recommendation 1.1 (option 3) is adopted.

⁵ See footnote 5.

⁶ See footnote 5.

3.6 Option 6 - Removal of Vehicle Tinted Windows Condition (recommended)

The issue of rear 'blacked out' tinted windows being a risk to public safety in licensed vehicles has been debated by councils in the UK for over 15 years. Some councils believe that manufactured 'blacked out' rear windows do not put passenger safety at risk and point to the fact that there is no empirical evidence, produced either by Police or Taxi Licensing Officers, that demonstrates this. However, other councils such as this Council, believe that customers, police and enforcement officers should be able to clearly see into the rear of the vehicle prior to getting in it or conducting an inspection. Council Officers have been aware for some time that some drivers / proprietors / operators believe that a rear tinted window condition is a deterrent to getting licensed in Milton Keynes as neighbouring councils do not have such a restriction. drivers/proprietors have commented that they do not understand how rear tinted windows undermines public safety when they are designed to improve passenger privacy and comfort, and vehicle efficiency.

Private Hire Operators Skyline, Speedline, Bounds, Cab 365, Airport Express MK and the MK Private Hire Association support this option; whilst the MK Taxi Association (Hackney Carriages) does not support this option.

Council officers have carefully considered all views on rear tinted windows and are not aware of any evidence to show that tinted rear windows undermines public safety. Whilst Council officers support the view that being able to see into the vehicle is important, this needs to be weighed up against the deterrent that this condition is clearly having on allowing vehicles to be licensed by the Council. The Council is not aware of Milton Keynes Operators, who use out of town vehicles under an alternative Operator licence, of receiving complaints if they provide vehicles with tinted windows. It is quite clear that the policies of neighbouring councils in regard to tinted windows have made it attractive to licence vehicles there and not with this Council, and these vehicles are clearly transporting Milton Keynes residents.

In addition to this, all electric vehicles come with rear tinted windows as standard to improve battery efficiency and to remove these windows is a financial deterrent to licensing one with this Council. The view of Council officers is that electric vehicles are the future and therefore the Council should be doing everything possible (without undermining public safety) to licence these vehicles. Milton Keynes officers are considering a long term strategy to ensure there is a full fleet of licensed electric vehicles by around 2030 and to tie into elements of the MK Futures Strategy. This would not however be something that could be implemented whilst this restriction remains. Officers now believe that by removing the tinted windows condition for the purpose of increasing the amount of electric vehicles on its fleet is justifiable; would not undermine public safety; and would support the Council's carbon reduction strategies. In essence, given the choice of MK residents being in a vehicle with tinted windows, officers would prefer that vehicle to be driven by an Milton Keynes licensed driver. In addition, Milton Keynes has the largest number of electric rapid charges in the country and some Private Hire Operators have expressed a view to create an electric fleet of vehicles specifically for Milton Keynes. This is something the Council's Transport Innovation and Taxi Licensing Teams are keen to support. Council officers therefore recommend that the Council's Taxi Policy be amended to remove the tinted window condition and replace with:

Side and rear windows will not have a visual light transmission restriction but they can only be installed by the vehicle's manufacturer. Adhesive window tints of any shade are not accepted for any licensed vehicle.

4. Consultation

4.1 The Milton Keynes Taxi and Private Hire Trade were consulted over a two week period from 2-16 February 2018 on the options proposed by Council officers.

5. Implications

5.1 Policy

Should the recommendations of this report (or an amended version of those recommendations) be supported by the Regulatory Committee they must then be referred to Cabinet for formal approval.

5.2 Resource and Risk

	Capital	x	Revenue		Accommodation
	IT		Medium Term Plan		Asset Management

5.3 Carbon and Energy Management

Removal of tinted windows is likely to increase the number of licensed electric vehicles.

5.4 Legal

The ability to have a Policy, procedures and conditions, and to amend them from time to time is inherent within the provisions of the 1976 Act.

5.5 Other

	Equalities/Diversity		Sustainability		Human Rights
	E-Government		Stakeholders		Crime & Disorder

Background Papers: Taxi Licensing Policy