1. Introduction

1.1 The purpose of this report is to determine an effective way forward for both authorities to manage the enforcement of vehicles and drivers from both authorities.

1.2 The report will place a focus on the act of ‘plying for hire’. This is when a private hire driver takes on a fare without a pre booking.

1.3 The report will give a background of the current position, the progress that has been made to achieving common objectives and proposing a way forward for the future.

2 Background

2.1 As South Northamptonshire is predominantly a rural location the geographic proximity of a large urban night time economy means that a large number of South Northamptonshire Council private hire drivers work regularly in Milton Keynes town centre.

2.2 Although this is outside the enforcement jurisdiction of South Northamptonshire Council licensing officers it is acknowledged that our Council should have a role in ensuring that our drivers comply with the law.

2.3 As a result South Northamptonshire Council and Milton Keynes Council have worked together for a number of years to combat illegal private hire trade in Milton Keynes town centre. This has included regular joint enforcement operations and support in legal proceedings and sanctions from both Councils.

2.4 This report sets out how the two Councils aim to strengthen these links and improve on their existing relationship by sending a clear message to the trade.
2.5 In doing so it will set out a common approach for drivers of both authorities acting illegally.

3 Progress to Date

3.1 South Northamptonshire Council held a meeting with Milton Keynes Hackney and Private Hire Associations on 19 May 2009 to give them an opportunity to voice and discuss their concerns regard the issue of plying for hire.

3.2 A meeting was held on 9 June 2009 between Members and Officers of Milton Keynes Council and South Northamptonshire District Council. The objective of the meeting was to discuss a way forward to tackle the problem of vehicles from both Authorities acting illegally within Milton Keynes. At this meeting it was agreed that there is shared commitment to deterring illegal practices. Both Councils agree that it is essential that a clear message is sent to the trade which shows that illegal practices will not be tolerated and that we act effectively as one statutory agency in the eyes of the private hire and taxi drivers and operators.

3.3 An outcome of the meeting was that officers be tasked to draft a report that outlined existing policies within each Authority and where differences lie and how they could be resolved.

3.4 Following that meeting a further meeting was held between officers to discuss the matter (Appendices A and B outline where the major differences occur)

3.5 The general view was that the differences were not significant enough to cause problems, albeit clarity was required.

3.6 As part of this continued commitment South Northamptonshire Council and Milton Keynes Council have prepared a joint statement which will be sent to all South Northamptonshire drivers and operators. This is provided in Appendix C and clearly points out the sanctions that may be imposed if drivers decide to take the risk of operating illegally.

4 Clarity of Roles

4.1 We have worked together to seek agreement and clarify our roles. We agree that it is important that we are consistent, transparent and professional; In particular we have agreed that:

South Northamptonshire Council will:

- continue to support Milton Keynes Council by participating in joint operations in Milton Keynes area.

- submit evidence to support legal proceedings taken by Milton Keynes;
- take punitive action/impose sanctions on drivers which will include:

- using the penalty points system when the offence is discovered and/or referring convicted drivers to the Council sub committee within 6 weeks of notification from Milton Keynes of conviction.

Milton Keynes Council will:

- instigate legal proceedings against drivers caught illegally plying for hire whenever possible within 8 weeks of discovery of the offence;

- provide information on the outcome of legal proceedings to South Northamptonshire as soon as practicable following conviction.

5 Committees

5.1 The role of the Committee when faced with a driver who has been prosecuted for plying for hire or any other offence is to decide whether the individual is a ‘fit and proper person’ to continue within his/her role as a driver.

5.2 For the purpose of its Licensing functions, the Committee within both authorities acts as an impartial quasi judicial Licensing Authority. Its role is to determine whether licences should be granted, renewed or in cases when a driver has been convicted within the Courts, whether to suspend, revoke or warn the driver as to their future conduct.

5.3 Committees act as an opportunity for the driver to present their cases and to allow witness support when applicable.

5.4 It is the forum for Members of the Committee to hear all sides of the story to enable them to decide what action needs to be taken and in doing so Members may take the drivers personal circumstances into consideration.

5.5 Once the decision has been taken in private session the Committee will then deliver a verdict. Committees should be mindful that a level of consistency in applying decisions should be maintained.

6 Further Work

In addition South Northamptonshire and Milton Keynes Councils intend to build on our partnership by:

- agreeing to make our roles clear to the trade at all levels and avoid inconsistent advice (e.g. South Northamptonshire Council will refer issues about the law on Milton Keynes prosecution cases to Milton Keynes Council);
- making reference to our partnership in all relevant communications (e.g. committee reports, press releases, briefing notes);

- issuing a regular joint briefing note for the private hire and taxi trade by South Northamptonshire Council continuing to attend Milton Keynes’ taxi forum periodically;

- providing, sharing and publicising relevant data which can be used to demonstrate that we are having an effect on illegal trade (numbers prosecuted, number suspended, revoked etc);

- South Northamptonshire Council will work with local operators to ensure that there is a responsible approach.

7 Recommendations

It is recommended that members note and agree the contents of the report, and, in particular the joint policy statement in Appendix C which will then be sent to all drivers and operators.

Jackie Fitzsimons
Environment Manager Commercial

Contact Officer:       David Macey
                      Senior Licensing Officer
Appendix A

There are three areas where the two authorities express different policy approaches.

It should be noted that PHV / taxi licensing legislation and guidance is complex, and is governed by a wealth of case law which has been developed from judgements established over a long period of time. Ultimately, although local authorities will have opinions, the courts will decide on interpretation of that law.

1. The Offence

The interpretation of ‘calling in’, a practice of the driver being approached by a prospective client and asking them to call the operator on-site is interpreted slightly differently by the two authorities.

The interpretation from MKC is the very fact that a vehicle is waiting within an area where they can be approached constitutes ‘plying for hire’.

The view of South Northamptonshire officers is that this practice is not unlawful.

The act is non prescriptive therefore there is no clear right or wrong. However the view reached by officers of MKC and SNC was that the MKC should seek their own method of redress in the Milton Keynes Area as it was MKC who take the risk when prosecuting the driver. SNC drivers who approach them in relation to an MK case will be asked to discuss the matter with MK officers. SNC would only take further action against a driver if the prosecution was successful.

2. Taking Drivers to Committee

The current practice within MKC is that a driver is taken to the next available Committee once all relevant information is gathered.

SNC have, for logistical reasons, grouped cases for committee in the past. In future, SNC will put drivers that are convicted, before committee as the information is made available.

In addition the senior SNC Licensing officer may on a case by case basis exercise his delegated right to impose sanctions outside of committee.

3. Approach to dealing with offenders plying for hire

Currently the MKC policy for offenders is to issue a formal caution to first time offenders if they admit the offence. If they do not do so they will be taken directly to Committee or Court.
Any subsequent offence within 3 years of the first offence will be taken direct to Committee.

SNC drivers caught within Milton Keynes who admit the offence and are first time offenders will also be issued with a formal caution by Milton Keynes.

Drivers who deny the offence or have points against their record will automatically be prosecuted if there is sufficient evidence.

In either case the matter will also be referred to South Northamptonshire Council for appropriate action, including issue of points and / or referral to committee.

Points will remain on the driver's record for 36 months.

SNC will provide regular updates on drivers with points against them.

SNC have a totting up points system and once a driver has reached a specific number of points he will go before Committee.

The general view was that although the methodology differed they were not incompatible and as such did not create a problem as long as they were applied in a consistent manner.
## Appendix B

### Table of Comparison of Policy Areas - South Northamptonshire and Milton Keynes Council

<table>
<thead>
<tr>
<th></th>
<th>Joint Operations Milton Keynes and South Northamptonshire Council</th>
<th></th>
<th></th>
<th>Other Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>South Northamptonshire Council</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>What is the Council’s role in a joint operation?</td>
<td>SNC aims to provide at least one officer on each operation, subject to man-power availability and other licensing commitments</td>
<td>What action will the Council take?</td>
<td>SNC drivers are given points in line with the Penalty Point System pending their court appearance. If found not guilty, the points are removed; if found guilty, they face further action. This action will be in accordance with the council’s taxi enforcement policy</td>
<td>What actions do/could the licensing committee take?</td>
</tr>
<tr>
<td>Milton Keynes Council</td>
<td>Milton Keynes set up and run various operations in Milton Keynes, invites are always extended to SNC. Continue to target offenders that put members of public at risk.</td>
<td>Continue to enforce legislation and take action in line with MKC policy. Prosecute drivers from other local authorities and ensure conviction details are passed to that authority.</td>
<td>MK Licensing committee can/do issue cautions, suspend or revoke driver’s licences. In the main drivers are put before the committee once convicted or if driver has already been cautioned. Action in relation to second offences usually is suspension or revocation.</td>
<td></td>
</tr>
</tbody>
</table>
### Driver caught within own area

<table>
<thead>
<tr>
<th>South Northamptonshire Council</th>
<th>What action could/does the Council take?</th>
<th>What actions do/could the licensing committee take?</th>
<th>What is our policy for operators?</th>
<th>Other Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>For unlawfully plying for hire - prosecution</td>
<td>Licensing sub-Committee could: - 1) Issue a warning; 2) Issue points in line with the council’s penalty point scheme; 3) Suspend / revoke driver’s licence</td>
<td>Attached</td>
<td>Delegated powers to SLO – dependant on SNC guidelines (based on HO guidelines)</td>
</tr>
</tbody>
</table>

| Milton Keynes Council | MKC are dealt with in line with policy. Drivers from other areas are prosecuted and then upon conviction referred back to local authority for action | MKC – Issue a warning, Suspend or revoke | As attached | |

### Driver caught outside own area and referred back from another Council

<table>
<thead>
<tr>
<th>South Northamptonshire Council</th>
<th>What action will the Council take?</th>
<th>What actions do/could the licensing committee take?</th>
<th>What is our policy for operators?</th>
<th>Other Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Other than from MK, this has never happened. If it did, action would depend on the offence</td>
<td>Ditto</td>
<td>Attached</td>
<td>Delegated powers to SLO – dependant on SNC guidelines (based on HO guidelines)</td>
</tr>
</tbody>
</table>

| Milton Keynes Council | If MKC drivers are convicted they are put before the next available committee for action to be taken. This is in the main is suspension or revocation. | Suspension or revocation for convictions or complaints etc. | As attached | |


Joint Statement
Milton Keynes Council and South Northamptonshire Council

This is a joint statement which sets out the way that Milton Keynes Council and South Northamptonshire Council are working together in Milton Keynes to ensure that all of our drivers are safe and legal.

Both Councils have agreed that they will work in partnership to ensure that drivers, vehicle owners and operators comply with the law and local licensing conditions.

In particular:

- We will, working in partnership, regularly carry out test purchases and roadside checks on vehicles and drivers to ensure they are fit for use and of the standard required to remain licensed
- We will both support and take enforcement action where drivers and operators fail to comply with the law
- We are committed to taking action against drivers who are found illegally plying for hire in Milton Keynes
- We will take a serious view of illegal plying for hire for any driver.

What will happen if you take the risk?
If you are caught illegally plying for hire in Milton Keynes, the following may happen:

If we have enough evidence Milton Keynes will take you to court where you could:

- be fined
- have legal costs imposed
- have your DVLA licence endorsed with up to 8 penalty points
- may have your DVLA licence disqualified.

If you are taken to court and found guilty, your conviction will be referred to South Northamptonshire Council who issue your badge, in order for your licence to be reviewed.

South Northamptonshire Council will either:

Issue points in line with their own penalty point procedure; these will remain on your driver file for a period of thirty six months.

If you obtain 12 or more points in a 12 month period you will be put before the Licensing sub-Committee with a recommendation that your licence is suspended for 28 days

or

Put you before the Licensing sub-Committee with a view to them making a decision as to your suitability to continue working as a licensed driver.

or

depending on the circumstances, use powers delegated to officers to suspend or revoke your driver’s licence.