

From: Pearson-Jenkins, James [REDACTED]

Sent: 10 September 2012 10:05

To: TPH

Subject: Wedding Cars

Dear Sir or Madam,

I would like to forward my objections to wedding companies being asked to register vehicles as PHV's.

It is hard to imagine why this is being proposed, apart from a direct assault upon a cultural aspect of British history and tradition. This action will force many to abandon their services and will ultimately leave couples without their wedding day transport: small companies will not be able to afford the PHV license and will fold.

I have contacted RoSPA and they have no individual data for RTI's relating to Wedding Vehicles: I therefore conclude that the proposal is not evidence based and has a basis not in a plethora of RTI's but in the opportunity to revenue raise. Wedding vehicles typically complete very few miles annually, and do not engage in transport that makes them a danger (I.e. Travel at night time or travel carrying vulnerable individuals). Wedding Cars are wholly distinct from any other form of transport and they are often older vehicles which are very highly maintained by classic car specialists. Wedding firms do not usually engage in 'Prom' events which carry children.

I hope that this proposal is considered on the merits of the Wedding Industry as it currently stands and not upon an unrelated industry (taxis) that certainly do require such management.

Kind regards

James Pearson-Jenkins RN Bsc (Hons) PGCE PGDipEd FHEA

Partner, Darwin Classic Cars

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From: Martin Couchman [REDACTED]

Sent: 10 September 2012 10:05

To: TPH

Subject: Taxi and Private Hire Services: Submission by the British Hospitality Association

Dear Sirs,

The British Hospitality Association is the national association for the hotel, restaurant and catering industry. Our members operate more than half of the 700,000 hotel rooms in the United Kingdom.

This response to the consultation on taxis and private hire vehicles relates to a number of our members operating hotels. We have seen and agree entirely with the submission made by our member The Nare Hotel, Cornwall, on behalf of Pride of Britain Hotels.

The issue of whether chauffeur driven cars provided by hotels for their guests should be subject to Private Hire Vehicle licensing was raised several years ago by a number of members, but attempts to clarify the position with the Department of Transport ran into the difficulty that officials regarded interpretation as a matter for local authorities. As a result, it is probably still the case that some local authorities are insisting on PHV licensing of vehicles and drivers and others are not.

The merits of the case are well set out in the submission by The Nare Hotel, to which we would add these points: we understand the public protection reasoning behind PHV licensing, but it should not be impossible to provide a specific exemption based on the provision by a hotel of transport for resident guests (those staying in a hotel and collecting those booked to stay in the hotel and transporting those leaving the hotel). Any exemption will have to be specific because it will have to deal with the point that, whether provision of such transport is 'ancillary' to the business, it is provided only for paying customers and, to that extent, is a commercial operation like PHV operations generally.

I confirm that we should be pleased to discuss the issue further if that would be helpful and that we have no objection to this response being made publicly available.

Yours faithfully,

Martin Couchman
Deputy Chief Executive

Tel: [REDACTED]

Fax: [REDACTED]

Email [REDACTED]
[REDACTED]

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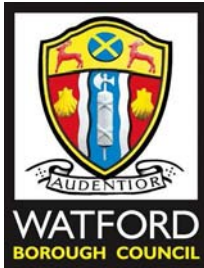
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From: Phil [REDACTED]
Sent: 10 September 2012 10:11
To: LAWCOM Taxi / PHV regulation
Subject: Taxi wedding car laws

- I. If this is about safety what has happened to suggest there is a safety issue relating to wedding cars - the Law Commission has failed to bring up one point on safety.
- II. If this is about conformity and a level playing field as one MP put it do we really want to see a vintage Rolls Royce plying for hire at Tesco or a 1946 open top Buick picking up patients from the local hospital.
- III. Why are the wedding car and funeral industries being lumped in with the transport industry? Wedding cars and funeral cars are two distinctly totally separate industries certainly not linked in any way with mini-cabs or taxis.
- IV. If this proposal goes through it will mean the end of well over a 1000 wedding car companies across the country
- V. Why is there no proposal to remove the [7/10](#) year age limit imposed by the local authorities that currently administer taxi and private hire licencing. If they do not remove the age limit then all classic and vintage wedding cars will cease to exist.
- VI. The change could lead to a huge increase in American stretched Limos on our unsuitable roads as they will be just about the only ones able to fill the void.
- VII. Needless to say the provision of wonderful classic and vintage cars is an integral part of any bride's special day. This proposal will totally wipe out this wonderful British tradition.

Sent from my iPhone
Phil Terrana
Barrie James RR & Bentley hire

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Watford Borough Council

Town Hall • Watford • Hertfordshire • [REDACTED]

Website [REDACTED]

By email: tph@lawcommission.gsi.gov.uk

Reply to:

Jeffrey Leib

Telephone:

Our Reference:

Your reference:

Date:

7 September 2012

Email: [REDACTED]

Dear Sirs

Reforming the law of taxi and private hire services

I have been asked by the Licensing Committee of Watford Borough Council to submit the attached response to the Law Commission's consultation, which it considered at its meeting on 6 September 2012.

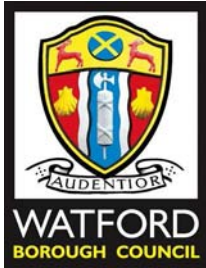
If you require any further information please contact me as shown.

Yours sincerely

JEFFREY LEIB
Licensing Manager



INVESTOR IN PEOPLE



Watford Borough Council

Town Hall • Watford • Hertfordshire • [REDACTED]

Website [REDACTED]

LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

CHAPTER 13 - OVERVIEW OF PROVISIONAL REFORM PROPOSALS		
Proposition/Question Number	Proposition/Question	Comments for consideration by the General Licensing Committee
Provisional Proposal 1	Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. (Page 160)	<p>The current different legislative position of taxis and private hire vehicles is an unnecessary one. While there is a full appreciation of why the legislation was enacted in the 19th and 20th centuries this distinction based only on the relative point in time when the booking was made is outdated and irrelevant. Modern technology has made such advancement in communications and the reality is that individuals on the move can book a private hire vehicle in front of them via the internet, SMS or voice call in the same amount of time as it would to hail a Hackney Carriage or give directions to the driver through the window at a Hackney Carriage Rank.</p> <p>Indeed, the cost of enforcement work by local authorities of this distinction is a diversion from issues such as vehicle quality, misconduct by drivers towards passengers and overcharging.</p> <p>The different treatment of taxis and private hire vehicles is the biggest single interference in the proper function of the market place for the hire of vehicles with drivers. To enable the market to be fully functional, the division should be removed. In its place, local authorities exercising licensing functions should be permitted, if not encouraged, to provide Taxi Ranks at suitable locations and access to those Ranks should be for wheelchair accessible vehicles as defined in the Equality Act 2010. To open up competition further, individuals ought to be able to apply to the Highways Authority, with the agreement of the Licensing Authority in consultation with residents and councillors, for permission to install ranks on the public highway at their expense. This would help alleviate the pressure that might otherwise result from a single-tier system.</p>



INVESTOR IN PEOPLE

		In addition, the new single form of licensed vehicle should also be required to have an Operator with whom the contract for the booking is deemed to be made (apart from sole traders – see our response to provisional proposal 48 below) and therefore drivers of licensed vehicles that are immediately booked will need to record the relevant details and/or pass the booking detail to the Operator.
CHAPTER 14 – REFORM OF DEFINITIONS AND SCOPE		
Provisional Proposal 2	London should be included, with appropriate modifications, within the scope of reform. (Page 162)	The influence of the London taxi trade on legislation throughout the rest of the country has been marked in the past – for instance, the resistance to and eventually licensing of private hire vehicles in the capital had an impact in the Home Counties for many years. There is no good reason for excluding London from the same reforms that may apply throughout the country, albeit the strategic regulatory role of Transport for London ought to remain.
Provisional Proposal 3	The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. (Page 164)	Restrictions in relation to particular makes and models of vehicles do not promote the effective operation of the market for these services and should not be the focus of the work of licensing authorities. For the market to be effective, Operators of these services should be free to secure the appropriate vehicle within parameters set by licensing authorities.
Question 4	Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? (Page 164)	Motor vehicles requiring driving licences are not the only mode of passenger-carrying vehicle. This proposal would create a lacuna where the safety of any other vehicle, and the standards of the drivers, would be unregulated.
Provisional Proposal 5	Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. (Page 165)	We agree that the principle of public service vehicles still being licensed by the Traffic Commissioners is one with which we concur. However, we see no real rationale why taxi and private hire vehicles should be limited to eight or fewer passengers, and in some areas it may be advantageous to licence vehicles for perhaps up to sixteen passengers. In our view, it is the way in which the vehicle is operated rather than the size of the vehicle that is the issue.
Provisional Proposal 6	References to stage coaches charging separate	This proposal is wholeheartedly endorsed.

	fees should no longer feature as an exclusion from the definition of taxis. (Page 166)	
Provisional Proposal 7	The secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency.(Page 167)	If larger vehicles are licensed by the licensing authorities rather than the Traffic Commissioners (as outlined in our response to proposal 5), then the former will licence stretch limousines and other similar vehicles anyway, negating the need for separate guidance from the Secretary of State.
Provisional Proposal 8	The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. (Page 168)	This proposal is wholeheartedly endorsed. In fact, the reply referred to in response to question 4 above could be used to circumvent any attempts to mis-use this exclusion to avoid control of vehicles and drivers through the provisions relevant to taxis and private hire vehicles.
Question 9	How, if at all, should the regulation of taxi and private hire deal with: (a) carpooling; and (b) members clubs? (page 170)	With the proviso expressed in the reply to question 4 in order to circumvent any attempt to use such an exclusion to avoid the requirements that would otherwise apply to taxis and private hire services the exclusions should be permitted
Provisional Proposal 10	The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. (Page 171)	National minimum standards which could be built upon by local authorities according to different needs and circumstances would be welcome and so this flexibility ought to be allowed.
Provisional Proposal 11	Weddings and funerals should no longer be expressly excluded from private hire licensing	We believe that licensing should be conducted on a risk basis, with greater regulation being applied to those areas that present the greatest risk. We do not believe that funeral cars represent any significant risk to the public providing they pass the current MOT standards. Unlike PHVs or taxis, passengers are rarely alone in such vehicles

	through primary legislation. (Page 172)	<p>with the drivers. It would also logically lead to the need for hearses to be licensed, or to lead to an imbalance where hearses need not be licensed (but which could potentially be carrying mourners) and other vehicles in a funeral cortege would need licensing.</p> <p>Wedding cars are also, in our view, of low risk. Those planning weddings usually select their preferred mode of transport a considerable time in advance, and are able to make an informed decision as to the suitability of the vehicle provider. There is however an argument that the wording of the statutory exemption should be tightened, perhaps to expressly state such exemptions only applied when the vehicle is being used to convey passengers to and from a recognised marriage ceremony and associated celebrations.</p>
Question 12	Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse? (Page 174)	There is no merit in this proposal. The existence of the exclusion was a distortion to the operation of this market and one that should not be re-introduced. The Secretary of State should be able, with appropriate consultation, to publish regulations (or guidance) setting out the types of services which would not need licensing such as child-minding, patient transport, close-protection transport by Security Industry Authority licensed personnel or prisoner escorts.
Provisional Proposal 13	Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets". (Page 175)	This proposal is wholeheartedly endorsed. It should apply to anywhere where the public have access as of right or access as of fact. Any future legislation should also make clear that enforcement powers exercised by local authority officers extend to private land for those purposes.
Question 14	Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? (Page 177)	No specific comments are made on this proposal.
Provisional Proposal	The defining feature of taxis,	This question of course reinforces the assumption that there will continue to be a two-

15	<p>the concept of “plying for hire”, should be placed on a statutory footing and include:</p> <ul style="list-style-type: none"> (a) references to ranking and hailing (b) a non-exhaustive list of factors indicating plying for hire; and (c) appropriate accommodation of the legitimate activities of private hire vehicles. (Page 181) 	<p>tier system, which we do not necessarily agree with. If that is the position, then the following is applicable.</p> <p>We are concerned that, whilst a statutory definition would be useful, a non-exhaustive list of factors describing “plying for hire” could lead to stated cases that replicate the current muddled position. In our view, legislation could be framed along the lines of the following:</p> <p>1 (1) The driver (D) of a vehicle that is not licensed as a taxi shall commit an offence if in any place:</p> <ul style="list-style-type: none"> (i) by his conduct or (ii) by his use of the vehicle <p>he arranges or encourages passengers to make a booking directly with him for the hire of the vehicle to be driven by him or someone other than the passenger (P) for money or money’s worth.</p> <p>(2) D shall commit an offence if in any place he uses a vehicle that is not licensed as a taxi to carry P for money or money’s worth unless:</p> <ul style="list-style-type: none"> (i) D is licensed as a private hire operator and has made arrangements for P to hire the vehicle other than in person prior to the start of the hiring or (ii) P has hired a vehicle directly from a private hire operator without any involvement of D.
Provisional Proposal 16	<p>The concepts of hailing and ranking should not cover technological means of engaging taxi services. (Page 181)</p>	<p>We would agree that hailing and ranking are activities conducted in person and therefore the technological means of engaging taxi services are irrelevant.</p>
Question 17	<p>Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”? (Page 182)</p>	<p>If a two-tier arrangement is maintained, then we would agree this would be a better basis for defining the use of taxis in a public place and matches our response to provisional proposal 15 .</p>
Provisional Proposal	<p>The concept of</p>	<p>This proposal is endorsed. Your proposal would see this requirement as substantially</p>

18	compellability, which applies exclusively to taxis, should be retained. (Page 182)	the same as in the current law, which at present requires drivers without reasonable excuse to carry passengers anywhere within the district that they are licensed. However we feel that any new legislation should make the requirement clear, specific and enforceable.
Provisional Proposal 19	Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. (Page 183)	The retention of the archaic distinction in law between private hire and taxi vehicles is not supported and will not meet the test of time and continue to divert licensing officer resources away from more important aspects of this licensing framework. The absence of a record of taxi bookings made directly with the driver is also a loophole which any revision of the law should address. The creation of a single form of licensed vehicle and in respect of which the local authority can designate taxi ranks and determine access to those ranks is a more straight forward licensing framework and has the capacity to last without revision.
Provisional Proposal 20	Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved. (Page 184)	This proposal is wholeheartedly endorsed. The current provisions are perverse in this regard and a licensed vehicle should be permitted to be 'out of service' for other purposes as determined by its owner/keeper. The proposition referred to in the replies about to require all bookings of vehicles and all immediate hirings of vehicles to be logged with an Operator will provide the mechanism by which alternative uses can be permitted.
Provisional Proposal 21	The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements. (Page 185)	DfT has published non-statutory guidance on taxi licensing as well as the guidance on the factors to be taken into account when considering if a service is private hire or not. We have found this advice useful and would see it being elevated to the form of statutory guidance as a helpful indicator of nationally consistency. Any guidance must be subject to proper consultation and revision requirements.
Provisional Proposal 22	Reformed legislation should refer to "taxis" and "private hire vehicles" respectively. References to "hackney carriages" should be abandoned. (Page 185)	The reformed legislation should refer to a single form of licensed vehicle and the preference would be for this to be "Taxi".
Question 23	Should private hire vehicles be able to use terms such as "taxi" or "cab" in advertising provided they	If there is a single-tier system, this question would not of course arise. This proposal in a two-tier system then runs counter to proposal 22, whereby the legislation would define the two types of vehicle but allowing both to use the same terms for advertising purposes. In our view this would lead to considerable confusion amongst the public and

	are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion? (Page 186)	operators. The proposals set out in the above replies to the Commissions provisional proposals and questions would dispense with restrictions on such terms and the anomalies this creates. The Commission should also examine the possibility of restricting the use of this term so that other businesses do not use it eg parcel delivery companies.
A REFORMED REGULATORY FRAMEWORK		
Provisional Proposal 24	Taxi and private hire services should each be subject to national safety requirements. (Page 188)	It does seem illogical that a taxi in Penzance can have different safety standards to one in Carlisle when they are both doing the same job. There seems nothing inherently wrong with subjecting licensed vehicles (whether one or two-tier) to the same minimum standards. However, we would be concerned by a rush to the lowest common denominator and would like to see a phased approach of perhaps five years to allow those areas with lower standards to come up to a nationally recognised minimum.
Provisional Proposal 25	National safety standards, as applied to taxi services, should only be minimum standards. (Page 189)	This has merit and would avoid licence-holders seeking out those authorities within a region with lower standards in order to get licensed and provide the national consistency that we refer to above. We think there is a strong case for allowing local discretion for additional standards such as signage but in order to maintain consistency the legislation should set the parameters within which any additional conditions can be made.
Provisional Proposal 26	National safety standards, as applied to private hire services, should be mandatory standards. (Page 189)	The appropriate level for standards to be set is locally where they can respond to the demands from the local population and businesses who use those service.
Provisional Proposal 27	Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no longer apply to private hire drivers. (Page 190)	This is illogical and would be a retrograde step. The professionalization of licensed drivers through requirements such as English language, topography and driving skills is a major contribution to advancement of this sector of the economy. Hundreds of licensed drivers nationally have secured recognised qualifications and it is hard to envisage that this would have occurred without the general development of skills and competencies among this section of the community.
Question 28	Should local standard-setting for private hire services be specifically retained in respect of vehicle	Local standard setting by local authorities for signage should be retained. Centrally set standards for other criteria would help develop a level playing field although there may be concerns about the speed of any necessary reforms once the legislation is in place.

	signage? Are there other areas where local standards for private hire vehicles are valuable? (Page 190)	
Question 29	What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? (Page 191)	Getting consensus from the large number of licence-holders, local authorities and other interested parties would present a challenge in setting common safety standards, but perhaps no less a challenge than many other areas of public policy and regulation. Any significant rise in standards would need a lead-in time to allow the industry to address those changes.
Question 30	Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (Page 192)	On the assumption that there is still a distinction between the two halves of the trade, we do not think national conditions should be different when considering taxi and private hire driver safety. We believe drivers are equally at risk regardless of driving a taxi or a private hire vehicle, although drivers in some areas of the country may be at significantly more risk than others and this in turn may be reflected in the make or model of vehicle being driven.
Provisional Proposal 31	The powers of the Secretary of State and Welsh Ministers to set national safety standards in particular should only cover conditions relating to safety (Page 192)	The proposition of the Secretary of State usurping the current role of local licensing authorities is not welcomed.
Provisional Proposal 32	The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. (Page 193)	The proposition of the Secretary of State usurping the current role of local licensing authorities is not welcomed. However, if it is pursued, there must be a consultation requirement prior to determination of those standards.
Question 33	What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? (Page 193)	Irrespective of whether this is pursued, the setting of safety standards should be evidence based and provide for local circumstances to be integrated into such considerations.
Provisional Proposal 34	Licensing authorities should retain the power to set standards locally for taxis	We agree that minimum standards could usefully be set at a national level to provide consumer confidence, industry reassurance and to eliminate inconsistency. We also strongly agree that local authorities ought to have a power to set conditions that are

	provided above the minimum national standards. (Page 193)	appropriate for its local area, which could include for instance specific customer care skills in tourist areas, disability awareness training etc.
Question 35	Should there be statutory limits to licensing authorities' ability to set local taxi standards? (Page 194)	Any restriction on the decisions of a local authority exercising licensing powers is already the subject of judicial oversight and this should continue as at present. If there is to be a role for the Secretary of State it should be issue statutory guidance in the area of actions by licensing authorities that could severely harm the operation of the market for these services.
Question 36	Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? (Page 194)	This power should remain as at present. Conditions may correct specific local issues, or It may be appropriate in some case as a remedial power. Breaches of conditions should, in the future be capable of being dealt with through the penalty notice procedure as an alternative to prosecution.
Question 37	Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? (Page 195)	There is advantage in areas of the country where there are two tier authorities for a general duty on the highway and licensing authorities to co-operate to ensure their roles are facilitated. Other than this, the appropriate level of cross-boundary standard setting and joint working should be left to local decision-makers.
Provisional Proposal 38	Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. (Page 196)	There would be no objections to any voluntary arrangements between neighbouring licensing authorities but in any event there are existing provisions for the creation of joint boards to administer licensing functions.
Provisional Proposal 39	Licensing authorities should have the option to create, or remove, taxi zones within their area. (Page 196)	This proposal is wholeheartedly endorsed. This power would provide measures to support transport provision where otherwise it might otherwise not be without the benefit of zoning.
Question 40	Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? (Page 197)	The creation of peak time licences is not supported. The investment in vehicles by their owners could be adversely affected by permitting individuals to enter the market at peak times and for very little overall advantage to the waiting time for passengers there would be a significant impact on the existing suppliers to maximise the income generation in order to meet their capital costs. Given the proposals that non-licensed drivers would be able to drive licensed vehicles when "off-duty", we would either see this idea as being difficult to enforce or "off-duty" vehicles being unfairly targeted by enforcement officers.
Provisional Proposal	Private hire operators	The existing legislation does not restrict operators from accepting or inviting bookings

41	should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. (Page 198)	<p>only within a particular locality and we see no reason for this to change.</p> <p>We see no objection to an operator licensed by Council X using a driver licensed by Council Y and in a vehicle licensed by Council Z with two fundamentally important caveats. The first is that Council X has the full powers of enforcement over those licences, including suspension, revocation, use of fixed penalty notices and prosecution whilst being used in their area. It would be wholly unreasonable to allow a driver licensed in Penzance to work in Watford, and to expect Cornwall Council to enforce the regulations against that driver whilst in Watford. This must suggest that common standards are applicable across the country in relation to drivers and vehicles to ensure that drivers and vehicles deployed by the same operator (let alone within the same area) offer the same level of protection to the public.</p> <p>The second caveat is that there must be an national licence fee and funding structure. Authorities must receive funding to conduct enforcement in relation to drivers and vehicles which they have not themselves licensed.</p>
Provisional Proposal 42	We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs. (Page 199)	The power to require this should be a matter that can be within the scope of the Secretary of State to introduce a Statutory Instrument if circumstances necessitate this in the public interest (based on the operation of the market while also seeking to secure transport provision in local areas).
Provisional Proposal 43	Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares. (Page 200)	<p>This proposal is wholeheartedly endorsed. All fares should be displayed in the same manner throughout the country, and the fare tariffs between authorities ought to have as much commonality as possible whilst allowing for local variations. Every authority would calculate its maximum fares to fit in with a national template set by the Secretary of State – for example, for journeys at night, for journeys under 10 miles, for journeys taking less than 30 minutes etc. In that way consumers would be able to compare like-for-like.</p> <p>We emphasise however that in a single-tier system taxi firms must be able to compete equally against each other.</p>
Question 44	Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (Page 200)	On the basis of the proposal outlined in the response to proposal 43, the permissibility of fares above the metered fare should be permitted provided that standards or conditions make sure that consumers are aware of when this will happen.
REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING		
Question 45	Should national driver safety	The fit and proper person test is a subjective one which in our view allows

	standards such as the requirement to be a “fit and proper person” be either: (a) set out in primary legislation; or (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 203)	inconsistencies to creep in between licensing authorities which in terms can affect local taxi markets with drivers often preferring those authorities with the lower standards. We would recommend that the “fit and proper” test is replaced by a more objective one. The legislation should specify some basic minimum requirements (eg driving experience, precluded previous criminal convictions, disability awareness training and medical requirements) that apply nationally. The legislation should indicate whether the DSA test should be a mandatory element of licensing. The legislation should allow licensing authorities to add to those requirements in terms of topographical knowledge tests or standards of English that meet their own particular area’s needs.
Provisional Proposal 46	Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. (Page 204)	While this presumption is accepted as a principal, in the exceptional circumstances that the vehicle owner has relevant convictions related to the maintenance of vehicles, the use of stolen property relevant to vehicles and/or the non payment of vehicle excise duty it would be relevant to consider these matters. These offences, like the ones above, should be specified in legislation rather than left to local authorities to divine.
Question 47	Should national vehicle safety standards be either: (a) set out in primary legislation; or (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 205)	National vehicle safety standards (subject to those areas reserved for local authority discretion) should be included in general conditions to provide for greater flexibility for reform as circumstances change.
T Provisional Proposal 48	Operator licensing should be retained as mandatory in respect of private hire vehicles. (Page 206)	This proposal is wholeheartedly endorsed. Indeed, the booking/hiring of taxi vehicles should also be deemed to be through an Operator who must then keep records of those hirings/bookings. In this way the advantages of such records being kept can be extended to all such licensed vehicles. However, an exemption could be made for sole operators, providing they are registered as such with the licensing authority.
Question 49	Should operator licensing be extended to cover taxi radio circuits and if so on what basis? (Page 208)	The idea of extending operator licensing is supported and should be extended to all hirings/bookings of taxis although again a simple registration should be available for sole operators.
Provisional Proposal 50	The definition of operators should not be extended in order to include intermediaries. (Page 209)	This proposal is wholeheartedly endorsed.

Question 51	Should "fit and proper" criteria in respect of operators be retained? (Page 209)	We would suggest that a similar approach is adopted for operators as we suggest for drivers. Indeed, given the range of material these businesses have, there should be an extension of licensing to controllers engaged by the Operators. Significant amounts of data about the activities and lifestyles of vulnerable adults and children will be held by Operators (and handled by those controllers). As such, they can be occupations sought out by those seeking to take advantage of those individuals and checks on the criminal records and other data held by the Criminal Records Bureau would be appropriate.
Provisional Proposal 52	Operators should be expressly permitted to sub-contract services. (Page 210)	This proposal is wholeheartedly endorsed. Auditable records of such sub-contracting arrangements should exist. We also see no reason why operators could not sub-contract to taxi operators or even public service vehicle operators in appropriate cases.
Question 53	Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? (Page 210)	We agree that this ought to be a mandatory requirement where working through an operator. This may be onerous when applied to a sole operator, whether working in the hailing or rank market but believe that this could be overcome by a compulsory requirement for a taximeter receipt to be given to all passengers, and the record of the journey recorded on the taximeter for use by enforcement bodies if required at a later date.
REFORMING QUANTITY CONTROLS		
Provisional Proposal 54	Licensing authorities should no longer have the power to restrict taxi numbers. (Page 213)	In our view, local authorities are best placed to decide what is best for their own areas and should continue to have the power to set limits.
Question 55	What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? (Page 213)	From our experience of delimiting hackney carriages in 2005 and re-imposing it in 2012, excessive demand will be placed on ranks and other road space if there is no ability to control the number of taxis on the road. A sudden increase of taxis in one locality can also lead to more complaints and the need for more administrative and enforcement resources by the licensing authority.
Question 56	Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed? (Page 215)	Transitional provisions should allow for either an increase or decrease in licensed vehicles where the market has to adjust to number set by the licensing authority. Where there is an increase, it should be introduced by the licensing authority as it thinks fit – either on a phased or immediate allocation of licences. Any decrease should be allowed to develop naturally.
TAXI AND PRIVATE HIRE REFORM AND EQUALITY		
Question 57	Should there be a separate licence category for	There is no necessity to yet further complicate the licensing regime set out in the proposals from the Commission although the proposal that licensees give priority to

	wheelchair accessible vehicles? This could involve (1) a duty on the licensee to give priority to disabled passengers; and (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. (Page 217)	disabled passengers is one that we would support. A specific duty to have regard to the transport needs of people with disabilities/users of wheelchairs in determining the extent of, location of and access to Taxi Ranks in their area would seem appropriate.
Question 58	Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? (Page 217)	Without some incentive (such as lower fees or that the licensing authority must licence a specific number of wheelchair accessible vehicles) it is unlikely in our view that the market itself will cater for that demand. This proposal has some attraction. The principal that the costs of licensing of taxis is fully recoverable from licensees (and applicants for licences) should be repeated in legislation.
Question 59	Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? (Page 217)	The supply of licensed vehicles for pre-booking will respond to demand for those vehicles if the market operates effectively. As such, the issue is primarily one of providing accessible vehicles at designated Taxi Ranks. This added value of accessing these ranks for drivers of accessible vehicles is the mechanism to positively influence the market in individual local areas.
Provisional Proposal 60	We do not propose to introduce national quotas of wheelchair accessible vehicles. (Page 218)	We refer to our response to question 54, although an alternative approach could be for the revised legislation to set out the list of factors an authority ought to take into account when deciding its' own level of wheelchair accessible vehicles.
Provisional Proposal 61	National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. (Page 219)	We would support this proposal in line with our response to question 59.
Provisional Proposal 62	In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. (Page 219)	This proposal is wholeheartedly endorsed. If this is to be valuable though the role of the licensing authority to control standards locally must be retained. If the Commission wishes to pursue this proposal we would urge it to also provide for Operators to consider complaints against drivers/vehicles deployed by them. We require operators to have a complaints policy (amongst other policies) and would recommend this is adopted in a national scale). It is only appropriate that the Operator is the first contact point for most complaints rather than bypassing them and coming straight to the licensing authority. It is though understood that certain complaints should be submitted directly to

		the authority.
Question 63	What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? (Page 220)	<p>This has only limited merit, as it would seem to us nearly impossible to enforce particularly it is proposed that the driver needs not always be licensed when it is being driven for social or domestic purposes. If this proposal is implemented, it would also have to include a concept of compellability which regretfully would be as difficult to enforce as the present situation.</p> <p>Under a one-tier system all vehicles could be compelled to stop when on duty, regardless of the status of the prospective passenger, and we believe this would be far easier to understand and to enforce. Alternatively, all taxis would be required to stop for able-bodied or disabled passengers. ,</p>
REFORMING ENFORCEMENT		
Question 64	Should authorised licensing officers have the power to stop licensed vehicles? (Page 222)	This power should apply to licensing authority officers in relation to licensed vehicles or those the reasonably suspect to be acting as an unlicensed vehicle. Appropriate safeguards (such as training, or accreditation by VOSA or the chief constable for the area) could be instituted. In addition, provided it is only used where reasonable to do so and for public safety reasons, they should have the power to direct a driver with a vehicle to a local testing depot.
Question 65	What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”. (Page 223)	<p>Touting is currently an arrestable offence, enforceable by the police. It should become a fixed penalty offence that could be dealt with by the licensing authority’s officers.</p> <p>In certain circumstances, touting could help dispersal of large numbers of individuals in one place and as such it may be more appropriate to require touting to be authorised by the local licensing authority, perhaps by way of some form of temporary derogation.</p>
Question 66	Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? (Page 223)	This power would greatly assist in the enforcement of licensing requirements. However, an alternative to this could be the issuing of penalty notices for such breaches. The immediate nature of the response is the key issue.
Question 67	Should licensing authorities make greater use of fixed penalty schemes and if so how? (Page 225)	A range of penalty notice provisions are mentioned above. These relate to most of the offence provisions under the current legislation and for breaches of conditions attached to licences. Existing fixed penalty notices allow for offenders to either challenge the allegation in court, or to discharge their liability through payment of the appropriate penalty. We believe that licensing authorities ought however to justify the revocation or non-renewal of a licence once a “trigger level” of FPNs have been issued and accepted by an individual to ensure the scheme has teeth.

		The revised legislation ought to have provision for licensing authorities to add additional conditions during the course of a licence where it is reasonably necessary to do so . Alternatively, licensing authorities should be able to make use of the provisions in sections 42 and 46 of the Regulatory Enforcement and Sanctions Act 2008 (discretionary requirements and stop notices respectively)
Provisional Proposal 68	Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. (Page 225)	This would be an essential requirement if operators were able to use drivers and vehicles licensed by other authorities and would be useful in maintaining and pooling resources between authorities without the need for any formal arrangements. The Commission should consider in its final report whether enforcement officers are able to exercise those powers outside of their own licensing area and, if so, whether that should also extend to those vehicles that are reasonably believed not to be licensed.
Question 69	Should cross-border enforcement powers extend to suspensions and revocation of licences? If so, what would be the best way of achieving this? (Page 226)	As we suggest in our response to provisional proposal 41, local authorities must have teeth in their own area if drivers and vehicles licensed by other operators are to be allowed to freely operate in those areas.
REFORM OF HEARINGS AND APPEALS		
Provisional Proposal 70	The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or as appropriate, holder of the relevant licence (Page 230)	This proposal is wholeheartedly endorsed.
Provisional Proposal 71	The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. (Page 231)	We agree that this provision makes considerable sense, and is likely to save considerable time and expense for both parties. We believe that the duty to reconsider should be placed upon the licensing committees established under the Licensing Committee 2003, who may decide to either delegate to another Council officer or to a sub-committee of that committee.
Provisional Proposal 72	Appeals should continue to be heard in the magistrates court. (Page 232)	We would recommend that appeals should no longer be heard in the magistrates' court, whose expertise is mainly in criminal law rather than administrative and regulatory law. We would recommend that any appeal route in new legislation

		should be to the General Regulatory Chamber of the First-Tier Tribunal which of course already covers transport, local government standards and some licensing areas.
Question 73	Should there be an onward right of appeal to the Crown Court? (Page 233)	If the initial appeal is to the General Regulatory Chamber then the appeal route would of course be to the Upper Tribunal.

Neath Port Talbot County Borough Council

Consultation Response – Law Commission

PROVISIONAL PROPOSAL 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and PHVs, which can only accept pre-booked fares.

This, in effect, represents the retention of the current, “two-tier” system. The main alternative would be a one-tier system in which a single category of vehicle would be able to take pre-bookings, to hail and to rank.

A one-tier system would be simpler because it would avoid the distinction between regulation of taxis and PHVs. However, the Law Commission’s view is that it would require additional regulatory distinctions to be devised to accommodate the different range of services regulated. For example, executive cars and novelty vehicles (“limousines”) would have to come under some different form of control as it would be difficult to impose generic taxi and PHV regulation to these types of services.

The Commission also believes that moving to a single-tier would diminish consumer choice. Regulators would be faced with difficult choices, such as whether fares should be regulated for all journeys (as they may be now for taxis).

RESPONSE

Disagree,

This is an ideal opportunity to replace and simplify the existing two tier approach to vehicle licensing. A hackney carriage can undertake exactly the same type of work as provided by private hire vehicles, however private hire is restricted to bookings only. By having a one tier system, all vehicles with 8

or less passenger seats which operate for hire and reward will require the same licence from the local authority. Any such licensed vehicle will be able to be pre-booked, hailed from the roadside or wait at designated “taxi” ranks.

I do not feel consumer choice would be diminished as those offering executive travel or novelty vehicles can still do so, just under the banner of a taxi. Conditions could still be made allowing different types of vehicles to have certain exemptions e.g. limousines not requiring a roof sign.

PROVISIONAL PROPOSAL 2

<p>London should be included, with appropriate modifications, within the scope of reform.</p>

This proposal is not considered relevant to Welsh considerations according to the Welsh Government.

RESPONSE

Agree, the legislation should be the same throughout England and Wales. Having one piece of legislation that regulates “taxis” in the same manner throughout England and Wales will create a simple and clear regulatory framework.

PROVISIONAL PROPOSAL 3

The regulation of taxis and PHVs should not be restricted to any particular type of vehicle, but should rather focus on road transport services provided for hire with the services of a driver.

RESPONSE

Agree

Restricting the work of vehicles offered for hire and reward to one type of vehicle would be detrimental to the whole system. People come in all shapes and sizes with different levels of mobility and disability. Having one vehicle that will cater sufficiently for all types of person would be extremely difficult to design and consequently it would also be expensive.

QUESTION 4

Would there be – and if so, what – advantages to restricting licensing to motor vehicles that require a driving licence?

The Law Commission's preferred approach is to take a broad view, in the spirit of the current legislation, in which "taxis" are "every wheeled carriage, whatever its form or construction".

Consequently, a greater range of standards would be needed to apply to a broad definition. Possible vehicles include motorbikes, limousines, horse-drawn carriages and Pedi cabs, which call for different sets of safety standards tailored to each. The default

inclusion of all vehicles carrying passengers for hire might act as a barrier to entry in respect of novel vehicles that may not fall within a pre-established category with defined standards. Standards of fitness for such vehicles would need to be agreed before they could be allowed to operate.

Or the taxi and PHV regime could be restricted to vehicles that require a driving licence – simple and clear. Limiting the definition to “motor vehicles” would be another alternative – so that motorbikes would be covered but Pedit cabs and horse-drawn carriages would not.

Overall, the Commission argues that the power to regulate taxis and PHVs should apply to a wide range of vehicles, providing flexibility to impose different standards for widely-different classes of vehicle, and the possibility of exempting certain types of vehicles or services.

RESPONSE

Disagree,

All vehicles that are provided with a driver for hire and reward should require a licence. This is to ensure that whenever the public pay for such a service, they should be confident that that vehicle has been through the licensing system to ensure that the vehicle is fit for purpose. Where it is felt appropriate specific exemptions can be made in regulations. By restricting licensing to motor vehicles requiring a driving licence, horse and carriages, Pedit cabs

PROVISIONAL PROPOSAL 5

Public Service Vehicles should be expressly excluded from the definition of taxi and PHVs; and taxis and PHVs should only cover vehicles adapted to seat eight or fewer passengers.

Buses – and Lorries – are regulated as Public Service Vehicles (PSVs). This covers any vehicle used for hire and reward adapted to seat more than eight passengers. PSVs fall within the scope of mandatory EU Regulations covering drivers’ working hours and

tachographs. But PSV drivers are not required to undergo criminal record checks.

Private hire regulation expressly excludes PSVs and only applied to vehicles with fewer than nine passenger seats. Taxi legislation predates modern public service legislation and instead of excluding PSVs carves out “stage coaches” or “stage carriages” which charge separate fares. Unlike PHVs, taxis have no limits in primary legislation on their passenger seating capacity, meaning that there is a potential overlap between PSVs and large taxis.

The Commission believes that the considerable discrepancies between PSV regulation compared with taxi and PHVs make it desirable to reduce the area of overlap to avoid providers selecting the licensing regime that is least onerous. The Commission’s proposal is therefore to use the number of passenger seats as a way to distinguish between taxi and PHV regulation on the one hand; and PSV regulation on the other.

RESPONSE

Agree. The existing legislation allowing vehicles with 8 or less passenger seats to operate as a public service vehicle is complex, confusing and often abused. Reform should also include that PSV licensing be restricted to vehicles with more than 8 passenger seats.

PROVISIONAL PROPOSAL 6

References to stage coaches charging separate fares should no longer feature as an exclusion from the definition of taxis.
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The current – Victorian – taxi legislation expressly carves out stage coaches (an historical term for PSVs) and stage carriages from licensing requirements. Where passengers pay separate fares in

vehicles with fewer than nine passenger seats, the law is unclear about whether or not that should count as a stage coach. This means that the proper scope of taxi licensing is, as a consequence, also unclear.

As an example of this unsatisfactory state of affairs, in London, Pedit cabs are considered to be stage carriages (i.e. cannot be licensed) whereas in the rest of England and Wales Pedit cabs may be licensed as taxis.

RESPONSE

All vehicles carrying 8 or less passengers whether charged separately or not should fall within the regulatory framework for taxis and private hire in the interests of public safety.

PROVISIONAL PROPOSAL 7

<p>The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other “novelty” vehicles to assist consistency.</p>

The Law Commission acknowledges that there is an overlap between the regulation of small PSVs (with fewer than nine passenger seats) and PHVs that can give rise to confusion.

Whereas PSV standards are outside the scope of the Commission's review, it considers it important to get the relationship between the standards adopted under the respective licensing regimes right. The Commission therefore proposes that limousines should seek licences as PHVs where they have fewer than nine passenger seats. [However, should a local licensing authority refuse to license limousines at all operators may have little choice but to license their limousines with the Traffic Commissioner as small PSVs.]The Secretary of State has power to issue guidance to the Senior Traffic Commissioner who, in turn, may issue guidance and general directions to Traffic Commissioners and their deputies.

RESPONSE

Agree.

As the law is to be re-written with statutory minimum standards then it is believed that limousines (especially stretched limousines) and novelty vehicles should be covered by the proposed minimum standards policy. All vehicles with 8 passenger seats or less should be the responsibility of Local Authorities not the Transport Commission.

This proposal is supported in order to remove the perceived loophole of a less onerous compliance standard than required by the private hire licensing regime. Reference in guidance should also be made regarding ensuring that small public service vehicles are driven by "fit and proper" persons and that they have had a CRB check.

Some drivers who have been refused a private hire driver's licence are still employed by private hire operators to drive over 8 seat vehicles. This loophole allows unsuitable drivers access to vulnerable persons.

This would be essential in providing a level of consistency and closing a public safety loophole (perceived or actual).

PROVISIONAL PROPOSAL 8

<p>The concept of "in the course of a business of carrying passengers" should be used to limit the scope of taxi and PHV licensing to</p>

exclude genuine volunteers as well as activities where transport is ancillary to the overall service.

The Commission considers it undesirable that the law currently “catches” activities where transporting passengers to a destination is not the principal purpose – e.g. looking after children. Taxi and PHV regulation should aim to cover services that are principally for the purpose of transport and have a commercial element.

Volunteers would automatically be excluded by an “in the course of business” definition. Volunteers may be subject to registration under the Vetting and Barring Scheme under the auspices of the Independent Safeguarding Authority. Some services may also be provided under a community transport (i.e. Section 19) permit.

Requiring volunteers to hold private hire licences (including a driver, vehicle and operator licence) seems excessively onerous and unnecessary.

RESPONSE

Disagree. Trying to identify who is a “genuine volunteer” is difficult and providing such exemptions makes enforcement extremely difficult. Passengers that get conveyed in a vehicle driven by a volunteer or child minder should expect the same levels of safety and inspection that paying passengers get? The underlying purpose of any regulatory framework is public safety and in circumstances where a service is provided every effort should be taken to ensure that safety.

Mandatory or Local conditions can allow, where appropriate, certain services to have less onerous requirements. E.g. testing frequency, door signs, roof signs etc. Regulations can allow for appropriate exemptions e.g. Emergency Services

QUESTION 9

How, if at all, should the regulation of taxis and PHVs deal with carpooling and members' clubs?

Carpooling is increasingly popular and should continue to be encouraged. Carpooling arrangements where passengers pay separate fares are expressly exempted from the public service licensing regime provide that they are not "in the course of a business of carrying passengers". This is not the case in respect of taxi and private hire legislation.

In carpooling the vehicle is not for hire in the conventional sense but there is a payment. DfT takes the position that carpooling lacks a commercial element and so is "not for hire" in the terms of the PHV licensing regime. Overall, the absence of profit appears to be the main determinant.

Some private hire services may be offered only to members of a club or to particular sections of the public, such as disabled passengers. In principle, taxi-type services could be similarly restricted.

RESPONSE

Any exemptions that are made under the legislation will be open to abuse and new legislation needs to ensure that all loopholes are covered.

However as in question 8 above there are always going to be circumstances where exemption is appropriate. If carpooling is one such circumstance then this can be dealt with by way of regulations.

PROVISIONAL PROPOSAL 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes.

The Law Commission's proposal for broad definitions in respect of vehicles and services to be covered in the regulatory regime means that some activities may be caught which should not be. This is especially true in the case of PHVs, where pre-existing arrangements are in place.

A key rationale for excluding a category of drivers or vehicles from the regulatory framework is where there is an alternative structure already in place to ensure safety and quality controls are met.

This proposal is linked to proposal 11, below.

RESPONSE

Agree. However standards across England and Wales should be the same to prevent cross border operations.

PROVISIONAL PROPOSAL 11

Weddings and funerals should no longer be expressly excluded from private hire licensing through primary legislation.

Where a vehicle is hired in connection with a wedding or funeral it is currently exempt from PHV licensing requirements. The Commission has noted that wedding cars could be provided by companies that also provide transport for other occasions which would not give rise to an exemption – e.g. stag or hen parties, or anniversaries. It is not clear why wedding cars should be excluded.

On the other hand, the case for continuing to exclude funeral cars may be stronger because those would usually be provided as part of the broader funeral function and transport in this case might be regarded as ancillary.

RESPONSE

Agree. There is no reason why vehicles that are used in the course of a business to carry paying passengers should benefit from exemption. The purpose of any new legislation should be to ensure public safety, therefore wedding and funeral vehicles and their drivers should be subjected to the same regulatory framework. Weddings in particular now appear to last a week and transport often includes Hen/Stag Nights plus conveyance of other guests and to and from airports and so forth.

QUESTION 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the powers to set national standards?

If so, what modifications could be made to help prevent abuse?

The so-called contract exemption excluded vehicles under a contract of hire for a period of not less than seven days. This was repealed in 2008 to enhance public safety by ending perceived loopholes.

The rationale for contract exemption was that where long-term contractual arrangements are in place the contracting parties can put in place sufficient safeguards in respect of vetting vehicles and drivers on their own terms. In these cases, there is no need for the burdens of general licensing criteria to be met. Public bodies, in particular the NHS and education authorities, need to set up large contracts for transporting children and vulnerable individuals. Such organisations are best-placed to set standards and monitor their attainment. Unlike most pre-bookings, such contracts will typically be subject to negotiation and be in writing.

The public safety argument in support of the repeal is less convincing because the most vulnerable passengers are in many cases transported by volunteer or contract drivers that would fall outside the taxi and private hire licensing regime. Where drivers are remunerated, as with care workers, this is typically as part of a wider package, often with carers using their own vehicles. Public-spirited individuals, some of whom had been offering long-term services based on lasting relationships, had been put off by the extra costs of licensing.

RESPONSE

No. The whole idea of the repeal was to take away the option of unlicensed drivers/vehicles with no formal enhanced Criminal Records check being allowed to transport vulnerable

children/adults. Where appropriate, exemptions can be defined in regulations.

PROVISIONAL PROPOSAL 13

Regulation of the way taxis and PHVs can engage with the public should not be limited to “streets”.

The statutory framework does not take a consistent approach towards private land. Significant areas – such as hospital, airports, railways, shopping centres and amusement parks – can fall within this category.

Some aspects of regulation are limited to (public) streets. This is true for plying for hire outside London. “Street” includes any road, square, court, alley and thoroughfare or public passage.

Where a taxi at a stand or in the street accepts a hiring, it is not under a duty to accept any passenger, but once it has accepted the passenger, it must take the passenger anywhere they might wish to go, within a prescribed distance.

This concept of compellability is limited to streets in London and in the rest of England and Wales.

Railways, which are on private land, have been dealt with specifically by statute so that licensing authorities’ requirements can apply to the railway station precinct as if it were a street or rank. There is no equivalent provision in respect of airports.

Subject to the need to comply with additional conditions imposed by private landowners, the Commission believes that it would be desirable to remove restrictions on the applicability of regulation by reference to streets. The imperative of public safety applies no differently whether services to the public are being provided on public – or private – land. The general law would therefore apply as a default minimum standard which could be raised by private landowners. This would adopt the current position in London.

RESPONSE

Agree – this should be any place within the district.

QUESTION 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports?

In particular, where concessionary arrangements are in place, should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank?

Unlike railways, taxi and private hire legislation does not deal with airports specifically. Airports are now mainstream integrated transport hubs and market failures in airport settings are, if anything, more extreme than those at railway stations. Consumer transport options at airports for onward travel can be limited and some do not have rail links. Particularly vulnerable consumers, such as tourists, are a significant part of the consumer base. This makes information deficits a particular problem. Airports also have limited space which also reduces the scope for competition.

This appears to suggest that the rationale for extending taxi and private hire licensing to railways might similarly apply at airports. Byelaws under the Civil Aviation Act 1986 cover the provision of taxi services. Some airport owners enter into contracts with chosen taxi and private hire companies and restrict access by all other providers. Other vehicles may only park some distance from the terminal.

It is important to consider how regulations can encourage competition and consumer choice. Funding information desks through a levy on the trades can be controversial. A requirement to monitor customer satisfaction according to agreed parameters might be useful. Waiting times and facilities could be rated, and benchmarking used to ensure that if satisfaction fell below agreed levels regulators might intervene.

RESPONSE

Disagree

Airports, Ferry Terminals and Railway stations should be serviced by licensed vehicles but how the customer can access those services on arrival could be a local and logistical matter not a licensable aspect

PROVISIONAL PROPOSAL 15

The defining feature of taxis, the concept of “plying for hire” should be placed on a statutory footing and include:

- a. References to ranking and hailing.
- b. A non-exhaustive list of factors indicating plying for hire.
- c. Appropriate accommodation of the legitimate activities of PHVs.

There is no statutory definition of “plying for hire”, although it is widely accepted as meaning exhibiting a vehicle as available for immediate hire by the public. Given that unlawful plying for hire is a criminal offence, it is important that its meaning should be clear and accessible.

The Commission believes that the central aspects of plying for hire should be put on a statutory footing to be more accessible and better reflect modern understandings of what taxis do.

The Commission suggests that there should be three key elements of a proposed statutory definition:

1. Use of the concepts of ranking and hailing;
2. Reference to a non-exhaustive list of factors relevant to determining plying for hire in grey areas; and
3. Accommodating the legitimate activities of PHVs.

RESPONSE

Agree, “plying for hire” needs to be properly defined to better reflect what modern “taxis” do. All vehicles in a one tier licensing system should be able to “ply for hire”.

PROVISIONAL PROPOSAL 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services.

The Commission suggests that plying for hire should not be interpreted to extend to novel technological ways of engaging vehicles, through mobile ‘phones and internet-assisted applications, which should remain means of pre-booking.

RESPONSE

Agree.

Where taxi services are engaged through technological means then this clearly should remain as a pre-booking. In a one tier system however, it would not matter whether a vehicle is pre-booked, hailed from the street or at a taxi rank.

QUESTION 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place”, instead of “plying for hire”?

In Scotland, taxis are defined as “A hire car which is engaged, by arrangements made in a public place, between the person to be conveyed in it (or a person acting on their behalf) and its driver for a journey beginning there and then.”

Private hire cars (as they are known in Scotland) are “any kind of vehicle which is, with a view to profit, available for hire by the public for personal conveyance, but is not a taxi”.

The taxi definition retains the idea of immediate availability for hire, but references to a “public place” could cause problems, especially as regards the internet.

RESPONSE

Generally people don't understand the term “plying for hire” and there is certainly merit in adopting a more understandable term for describing what a taxi does.

PROVISIONAL PROPOSAL 18

The concept of compellability, which applies exclusively to taxis, should be retained.

A key feature of taxis is that they are not permitted to refuse jobs once the consumer has engaged them appropriately, either at a rank or by hailing.

RESPONSE

Agree compellability should be retained however this does not currently apply re hailing – the vehicle is not engaged until the journey has been agreed. Compellability would mean that any vehicle within its licensed district must take a journey (once engaged) within the district unless there is a reasonable excuse not to.

PROVISIONAL PROPOSAL 19

Pre-booking would continue to be the only way of engaging a PHV and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked.

Under current law, the key distinction from taxis is achieved through restricting PHVs in how they can be engaged by the consumer. Bookings must be made in advance and through a licensed operator.

RESPONSE

Disagree. In a one tier system there would be no such issues.

PROVISIONAL PROPOSAL 20

Leisure and non-professional use of taxis and PHVs should be permitted. There would, however, be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.

Currently, leisure use of licensed taxis and PHVs outside London driven by unlicensed drivers is not allowed. Restricting this sort of use to licensed drivers restricts the scope to use a family vehicle for leisure. On the other hand, enforcing the legislation is difficult if the driver were to argue that the vehicle was being used privately at any time.

RESPONSE

Disagree. The current system is simple to use and does not affect the use of the taxi for family use. The only restriction being that the driver must hold a licence to drive a taxi issued by the parent Authority. As LA officers have no powers to stop vehicles proving/disproving that the vehicle was being used socially would create an unnecessary extra burden of proof aspect to any prosecution action taken by a LA.

PROVISIONAL PROPOSAL 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and PHV licensing requirements.

The Commission considers that the existence of statutory guidance might be helpful in obliging licensing authorities and judges to consider it when exercising their functions, aiding consistency. The DfT's existing guidance on what could count as a PHV would form the basis of any such statutory guidance.

RESPONSE

If the law was clear there would be no need for statutory guidance particularly where statutory minimum standards were imposed. The danger with statutory guidance is for the Government Department to try to impose their interpretation on the legislation. It is inevitably more red tape rather than less.

PROVISIONAL PROPOSAL 22

Reformed legislation should refer to "taxis" and "PHVs", respectively. References to "hackney carriages" should be abandoned.

This is eminently sensible as a hackney carriage is an historical term now out of date.

RESPONSE

Agree. However reformed legislation should refer to taxis or an agreed term for a vehicle that is used for hire and reward - there should be no need for classifications within a one tier system

QUESTION 23

Should PHVs be able to use terms such as "taxis" or "cabs" in advertising provided that they are only used in combination with terms such as "pre-booked" and do not otherwise lead to consumer confusion?

Current law prohibits private hire operators from using the terms "taxi" or "cab" in signs and advertising. Many people use the term "minicab".

Allowing PHVs to use the term “taxi” would represent a significant change, even if accompanied by a qualifying prefix. On the other hand, many consumers use the term in respect of taxis and PHVs. The key message for consumers is that PHVs can only be pre-booked.

RESPONSE

Disagree. This is confusing to the general public and is sending mixed messages. A one tier system would be far more straightforward.

PROVISIONAL PROPOSAL 24

Taxi and private hire services should each be subject to national safety requirements.
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The Law Commission argues that, as a matter of principle, everyone using taxis and PHVs should be entitled to expect the same, basic level of safety. The impact of such a change would be highly deregulatory for PHVs, where a wide range of standards exists at the moment.

RESPONSE

All vehicles licensed under any new legislation should have a minimum national safety requirement. That standard should be the same across the board, regardless of whether a one or two tier system is preferred.

PROVISIONAL PROPOSAL 25

National safety standards, as applied to taxi services, should only be minimum standards.

The Commission proposes that taxi regulation would continue to work differently from private hire regulation because consumers

are able to engage taxis at ranks and by hailing – the local nexus is strong. The ability of licensing authorities to control pricing and apply extra local standards to reflect local conditions is therefore important.

Licensing authorities would therefore retain the ability to impose requirements over and above the national (Welsh) standards to taxis being hailed or using ranks within their licensing area. These could be linked to safety, but the Commission also recognises that authorities might wish to impose other quality standards (e.g. accessibility, colours and signage, CCTV, a “knowledge” test or specific vehicle requirements).

RESPONSE

Agree. However the minimum standards should apply to all licensed vehicles regardless of whether they are pre-booked, hailed or engaged at a taxi rank. The Local Authority should be allowed to impose additional local standards where it is considered necessary. Setting the level of standard is important as setting the bar too low would continue to encourage cross border operations, whereas setting the bar too high would put too high a burden on service providers.

PROVISIONAL PROPOSAL 26

National safety standards, as applied to private hire services, should be mandatory standards.
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The Commission proposes that the regulation of private hire services should be limited to addressing safety concerns in accordance with standards set by the Secretary of State and by Welsh Ministers. Licensing authorities in the case of private hire services would not have powers to impose additional standards on private hire drivers, vehicles or operators. Private hire services would be able to exceed the mandatory standards in response to competition.

RESPONSE

Agree. The public should expect to have the same levels of safety no matter which type of vehicle they are conveyed in. National minimum standards therefore should apply to all vehicles licensed under any new legislation. This would be more straightforward in a one tier system.

PROVISIONAL PROPOSAL 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no longer apply to private hire drivers.

The Commission has two reasons for treating private hire services differently from taxis. First, for private hire vehicles, all journeys are pre-booked so can be planned in advance. The economic incentive to take the shortest route therefore lies with the provider. Second, a knowledgeable driver is a key example of a quality service but does not affect safety.

Unlike taxis, consumers are able to avoid private hire services – which rely on repeat business - that demonstrate lack knowledge, whether through the route chosen or the ability of the driver to plan.

RESPONSE

Disagree. In a one or two tier system all drivers should be required to reach the same standard. A professional driver should have the knowledge and skills to be able to deal with any situation that he / she is confronted with. I would suggest that in over 90% of cases a private hire vehicle undertakes exactly the same work as a hackney carriage i.e. working in the night time economy. Skills such as local knowledge, communication and basic arithmetic are essential to promote public safety. There appears no justification for treating the two services differently.

QUESTION 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage?

Are there other areas where local standards for PHVs are valuable?

The Commission also acknowledges that particular areas of private hire standards can have a local dimension. For example, vehicle signage has an impact on safety. Clear vehicle signage can help to counteract the risk that consumers will get in to an unlicensed vehicle, but such problems do not exist everywhere.

RESPONSE

If the two tier system were to be retained, it would be essential that hackney carriages and private hire vehicles look different. Public safety is paramount and the concern is that customers may inadvertently use bogus / unlicensed vehicles. This can be addressed by requiring taxis and private hire vehicles each to display certain signage, which would then easily distinguish them from each other and from the private motor car or bogus vehicle. The signage to be displayed on vehicles should continue to be a local policy.

A one tier system however would provide one vehicle that is clearly identifiable, door signs and roof signs and any other signage designed to make the vehicle look very different from the private motor car could be prescribed only allowing for council logos etc. to be added.

QUESTION 29

What practical obstacles might there be to setting common national safety standards for both taxis and PHVs?

Consequently, if a licensing authority were able to adopt taxi standards lower than those proposed for PHVs, drivers would have an incentive to license in that area even if they had no intention of working there as taxis.

Common safety standards do not require common specifications because different vehicles – of varying design - require different criteria to be met.

Introducing a single set of safety standards for taxis and PHVs would avoid the risk of a mismatch in taxi and private hire standards, but the different ways of working of taxis and PHVs may make it impractical to use the same standards for both.

RESPONSE

There is no reason why one type of vehicle should be subject to more onerous safety standards than the other; the general public should be as safe no matter which type of vehicle they travel in.

The type of vehicles used in the private hire industry generally are the same as used for hackney carriages, undertaking the same work; they only differ in the manner in which they are engaged. National safety standards need not differ greatly from the existing class 4 M.O.T, however the frequency of test should be directly related to the additional mileage undertaken by licensed vehicles. Vehicles in this authority regardless of whether they are private hire or hackney carriage are subject to 2 council inspections per year in addition to a M.O.T.

QUESTION 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services?
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The safety of taxi and private hire services goes beyond the safety of passengers, and must also address drivers' safety.

Options that have been considered include a partition between the driver and passenger space; CCTV, audio recording; and panic buttons.

RESPONSE

No. There is no reason why a driver of one type of vehicle should be less safe than the driver of another, either driver could find themselves in a dangerous situation. However consideration needs to be given to the level at which national standards are set as the cost of implementation would fall on the owners and such options should not be set nationally rather locally after consultation with the trade.

PROVISIONAL PROPOSAL 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and PHVs should only cover conditions relating to safety.

The Commission believes that each of the pillars (driver, vehicle and operator) under the current licensing regime has a role in promoting safety. The Commission proposes that the scope of standard-setting powers granted to the Secretary of State and to Welsh Ministers would only extend to conditions relating to the safety of taxi and private hire services.

RESPONSE

Agree. The purpose of such legislation is public safety and nationally set standards which provide consistency across England and Wales should be encouraged. However the ability for local authorities to set additional local conditions should be retained.

PROVISIONAL PROPOSAL 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement.
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RESPONSE

Agree. Statutory consultation requirements are becoming more common and useful. Especially for ensuring the views of the licensed trade, Local Authorities, and other stakeholders are considered and represented in the final outcome (if appropriate to do so) of any ‘national safety standards’.

The more opportunity there is for comment and participation in any standards set the more likely all people involved in the licensing process will be to ‘buy into’ the rules set.

QUESTION 33

What would be the best approach for determining the content of national safety standards?

In particular, should the statutory requirements to consult refer to a technical advisory panel?

National vehicle standards might include the use of roof signs, signage more generally, taxi-meters, CCTV cameras, tracking systems, driver shields (partitions), or tinted windows.

The Commission believes that the standard-setting powers held by the Secretary of State and Welsh Ministers, along with those of the licensing authorities in setting local standards for taxis, would be sufficiently flexible to deal appropriately with such issues.

RESPONSE

Agree. A panel consisting of persons who have the technical expertise to advise on such matters should be created to discuss the content of any nationally set standards. This can be completed on a regional level who will report back to a national technical advisory panel prior to consultation.

PROVISIONAL PROPOSAL 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards.

Local conditions would continue to apply but exclusively to taxis. Matters relating to quality and fares are key examples where local decision-making for taxis would be valuable (e.g. London's "Conditions of Fitness").

The Commission's provisional view is that licensing authorities should retain the discretion to impose licensing conditions provided that they do not fall below national standards.

RESPONSE

Agree. However licensing authorities should have the power to set additional standards for both hackney carriages and private hire vehicles in a two tier system.

QUESTION 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards?

The arguments in favour of regulating quality features are inevitably weaker than they are for safety features. A reformed system could be used to limit local licensing authorities' powers in this regard.

In Scotland, the Secretary of State and Scottish Ministers already have powers to make some conditions mandatory and – conversely – to prohibit conditions that are deemed undesirable. These powers may be applied differently reflecting local circumstances, including the type of taxi or PHV. There is also a specific [power to set types, sizes and designs of vehicles. Potentially, this could be a useful model for limiting the scope of licensing authorities' discretion to set local standards.

RESPONSE

It would depend on the level that national standards were set as to what additional standards would be required. I would suggest that the legislation should allow local authorities to specify conditions that are appropriate for ensuring public safety. It may be useful to have statutory limits to avoid legal challenge.

QUESTION 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators?

Under the Commission's proposals, nationally-set standards relating to safety would be the only form of regulation affecting private hire services. Taxis would instead be subject to two distinct sets of standards – one national, and one local.

The national standards may – or may not – be the same as those that would apply to PHVs.

Licensing authorities would not be obliged to introduce local conditions but would have the option to do so depending on local circumstances. Local standards could not, however, be any lower than the nationally-set minimum standards relating to safety.

Currently, licensing authorities may set conditions that apply to all licensees generally in their licensing area, as well as tailoring conditions specific to particular licensees. This applies to both taxis and private hire services.

The Commission considers this flexibility to be helpful, and believes that it should be retained for taxis as it is compatible with local licensing – albeit with the presumption that general conditions should be used, and individual conditions would be the exception.

RESPONSE

Local authorities are currently not able to impose conditions on hackney carriage drivers so retain is the wrong word. The introduction of such provisions would be welcomed, but to ensure a level of consistency, nationally set minimum standards should also be introduced. Local authorities will be able to set local conditions which are deemed appropriate to their own areas. Statutory limits again could be considered to avoid legal challenge.

QUESTION 37

Should the powers and duties of licensing authorities to co-operate be on a statutory footing, or is it best left to local arrangements?

Some local licensing authorities work together through an integrated regulatory service function within a single management structure. This should reduce management and overhead costs as well as encouraging consistency of standards.

Such arrangements can be made informally, while there are also statutory powers (Section 21 of the Local Government Act 1972) under which local authorities can arrange for certain functions to be discharged by other authorities.

RESPONSE

I think it is best left to licensing authorities to co-operate under local arrangements. A one size fits all approach would not work throughout England and Wales as local authorities within regions are too different e.g. a council with a large geographical area with several small authorities surrounding it may find co-operation difficult if it were a statutory requirement, however the smaller authority areas may benefit from such proposals.

PROVISIONAL PROPOSAL 38

Neighbouring licensing authorities should have the option of combining areas for the purpose of taxi standard setting.

Where licensing authorities have combined resources in administering and enforcing taxi and private hire functions, they may also wish to combine their remaining licensing activities relating to taxi standard-setting.

The Local Transport Act 2008 introduced powers for the creation of integrated transport authorities and to change the constitutional arrangements in existing ones. Under such arrangements, functions of the Secretary of State or a local authority can be delegated to the integrated authority.

RESPONSE

Agree. Where arrangements are in place to share resources, it makes sense that the standards for all taxis should be the same. However the introduction of nationally set standards at the right level should provide for a consistent approach throughout England and Wales. Where national standards exist, there should be little need for combining areas to set standards as these will already apply nationally.

PROVISIONAL PROPOSAL 39

Licensing authorities should have the option to create or remove taxi zones within their areas.

DfT recommends the abolition of taxi licensing zones to provide greater benefits to passengers through the greater availability of vehicles and more consumer choice. It also allows taxi drivers to ply for hire in a wider area, promoting more efficient operation.

On the other hand, where licensing authorities have proposed removing existing zones drivers have raised concerns about potentially higher fares through the introduction of blanket tariffs across a then wider area.

The Commission proposes the introduction of more flexible powers enabling licensing authorities to respond more easily to local circumstances. Such powers could allow authorities to create licensing zones or to remove them within their areas.

RESPONSE

Agree. This authority does not have any zones as the geographical area is relatively small. However I can imagine that a council with a large geographical area would require such zoning particularly where compellability may require a driver to convey passengers from one side of the authority area to another.

QUESTION 40

Would it be useful for licensing authorities to have the power to issue peak-time licences, which may only be used at certain times of the day as prescribed by the licensing authority?

Peak-time licences might offer an attractive, targeted option for ensuring provision at times of perceived, unsatisfied demand. Such a system is used successfully in parts of Australia.

RESPONSE

Disagree. This would create an unnecessary burden on the licensed trade and would be almost impossible to enforce by the licensing authority. This is a restrictive measure which has no place in modern transport networks.

PROVISIONAL PROPOSAL 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to using drivers or vehicles licensed by a particular licensing authority.

Currently, licensing officers have no enforcement powers in respect of vehicles licensed outside their licensing area. Moving to a common set of safety standards would mean that licensing officers would have a shared set of standards they may apply to any vehicle, driver or operator.

Also under current legislation, taxis may only ply for hire within their licensed area but may undertake pre-booked journeys anywhere. The Commission proposes retaining this. The scope for local variation in taxi standards, and in particular the different fares and accessibility standards, means that they should be restricted to working on ranks and to hailing passengers located in their licensing area. On the other hand, taxis would continue to be able to do pre-booked work out of borough as they can now.

Private hire operators are restricted to inviting and accepting bookings within their licensed area, and using vehicles and drivers licensed within the same licensing area. This is notwithstanding that PHVs are free to pick up and drop off anywhere.

Taxi drivers undertaking pre-booked journeys have no similar constraints whether taking bookings directly or where a third party may invite or accept bookings on their behalf (thus acting like an operator).

The move to mandatory national standards would mean that, although licences would be issued locally by different licensing authorities, their requirements would be the same. Cross-border restrictions, and the so-called “triple licensing” requirement whereby the operator, driver and vehicle must all be licensed by

the same licensing authority, would therefore fall away in respect of private hire services.

RESPONSE

Disagree. A one tier system does away with this as you would have a “taxi” that can ply for hire and be pre-booked. Nationally set minimum standards would prevent the operators from licensing vehicles in areas with more lenient conditions and ensure that operators licence their vehicles in the authority in which they live / work.

As vehicles will be working predominantly in the area in which they are licensed, public safety will not be compromised as licensing officers will be able to carry out inspection of vehicles on a regular basis.

PROVISIONAL PROPOSAL 42

<p>The Law Commission does not propose the introduction of a “return-to-area” requirement in respect of out-of-area drop offs.</p>
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The Commission does not propose the adoption of specific measures aimed to restrict cross-border activities of licensed PHVs or taxis. Introducing a return-to-area requirement would only lead to increased prices and reduced flexibility in the provision of services.

Taxis and PHVs could, after dropping off a passenger, legitimately pick up a different fare outside their licensed area pursuant to a pre-booking. Increasingly, intelligent dispatch systems make the likelihood of matching up passengers with proximate vehicles a reality. If drivers were required to drive back empty to their own licensing area that would not only be expensive but also environmentally damaging.

The danger that an out-of-area taxi or PHV might illegally ply for hire requires specific action through targeted enforcement.

In addition, the introduction of common safety standards reduces the seriousness of cross-border issues. If a licensed vehicle is illegally plying for hire it may be competing unfairly and breaching

various regulatory requirements but it does not present a safety risk.

RESPONSE

Agree. There is no requirement for such a provision. A “taxi” (in a one tier system) would not be able to ply for hire outside of the area anyway, but provision to match up fares by an operator is essential not only to optimise cost but to reduce the impact on the environment.

PROVISIONAL PROPOSAL 43

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares.

Price controls are widely used to address market failure in the taxi rank and hail markets. Most licensing authorities regulate maximum fares determined in accordance with formulae to reflect the cost of running a taxi further to a consultation process.

The private hire market does not require such intervention because of the existence of normal market competition. This does not mean that private hire fares are completely unregulated because general consumer protections do apply. For example, where a PHV has a meter it must comply with the Measuring Instruments Directive and trading standards controls.

Nothing in the Commission’s proposals would require local licensing authorities to regulate fares, and local authorities would retain the choice of whether to do so.

RESPONSE

Agree. However a “taxi” (in a one tier system) would be required to use a meter with locally set fares when plying for hire. Where a “taxi” is pre-booked there would be no requirement to use the meter and the operator and customer can agree a fare. Once advertised to the public, this will be a simple, clear and easily understandable process.

QUESTION 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys?

Under current law, taxi fares for pre-booked journeys ending inside the licensing area are capped at what have been the metered fare. Out-of-area journeys can be subject to a higher fare provided that this is agreed.

Taxis compete directly with PHVs in respect of the pre-booked market, so in effect provide competition pressure on taxis in respect of such journeys. The rationale for fare regulation of pre-booked taxi journeys is therefore less strong.

There are advantages to regulating pre-booked taxi fares. Taxis can be booked without operators and under current law they are not required to keep records of pre-booked journeys (unlike PHVs). If a taxi driver were to demand more than the metered fare it would be hard to track down that taxi, whereas if an operator is involved it would be easier to complain.

Requiring details of pre-booked taxi journeys to be kept and a presumption that the metered fare applies could allay concerns.

RESPONSE

Yes. As question 43 above, where the fare is pre-booked the operator and customer can agree a fare.

QUESTION 45

Should national driver safety standards such as the requirement to be a “fit and proper” person be either:

- a. Set out in primary legislation; or
- b. included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions?

A “fit and proper” person is not defined in statute. This might include the driver’s medical health as well as their level of training and skills. This is especially relevant in terms of assisting disabled passengers.

While the Commission acknowledges that certain requirements might best be set out in primary legislation, it also recognises that the powers of the Secretary of State and Welsh Ministers to set conditions in respect of bottom-line safety requirements could be sufficiently wide to cover such issues.

RESPONSE

Primary legislation should contain the criteria for vetting drivers for convictions. The Licensing Act 2003 sets out a schedule of relevant offences which must be used when assessing an applicant for a personal licence. A similar process

should be implemented for taxi applicants. Currently licensing authorities have local policies in relation to convictions which does not provide for a consistent approach throughout England and Wales.

In relation to medical health, knowledge and driver tests these can be set out in national safety conditions, although such standards should be the same in England and Wales.

PROVISIONAL PROPOSAL 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself.
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Currently, general vehicle requirements for both taxis and PHVs leave much discretion for setting local standards, which can relate to appearance, design and any distinguishing marks.

London’s Conditions of Fitness are the most prominent example of locally-set conditions and have been adopted by other authorities.

PHVs must satisfy licensing authorities in respect of:

- Suitability of type, size and design.
- Sufficient difference to taxis to avoid confusion.
- Suitable mechanical condition.
- Safety.
- Comfort.
- Proper insurance cover.

The Commission has suggested that the Secretary of State and Welsh Ministers should have powers to set national safety-related standards subject to a statutory consultation.

In England and Wales outside London the owner of a licensed vehicle is not subject to any statutory suitability requirements – there is no express power to refuse a vehicle owner a licence for reasons related to the applicant, as opposed to the vehicle. In respect of taxis, licensing authorities can issue byelaws “regulating the conduct of the proprietors”. They may also suspend or revoke a taxi or private hire licence for any reasonable cause. This may be broad enough to include reasons linked to the licence holder.

Vehicle owners in London must satisfy Transport for London that they are of good character, good business repute and, having regard to their financial position, are “fit and proper”. Owners do not come into public contact so are remote from considerations relating to passenger safety.

RESPONSE

Disagree. The Vehicle owner should also be subject to a fit and proper test. The owner of the vehicle is also the person responsible for acquiring the necessary insurance, road fund licence and MOT certificate for the vehicle. This person must, therefore, be a “responsible” fit and proper person

QUESTION 47

Should national vehicle safety standards be either:

- a. Set out in primary legislation; or
- b. included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions?

Currently, licensing authorities can take into account a broad range of criteria (beyond safety) in respect of licensing both taxis and PHVs.

The Commission has suggested that national standard setting would only extend to vehicle safety. This would also cover features distinguishing taxis from PHVs. On the other hand, considerations relating to broader quality considerations (e.g. colour or comfort) could only be regulated locally, and then only in respect of taxis.

Appropriate vehicle testing and insurance remain key safety requirements.

RESPONSE

Standards should be set out using the general powers to set national safety conditions. This will allow conditions to be more readily changed / adapted owing to any technological advances etc. Standards however need to be the same for both England and Wales.

PROVISIONAL PROPOSAL 48

Operator licensing should be retained as mandatory in respect of PHVs.
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Operators have only indirect contact with the public, although this is not the case for pre-bookings. Passengers in the latter circumstances do not know who the driver will be until they are collected. In private hire this is reinforced by the fact that the contract is between the consumer and the operator, not the driver.

Operators should periodically check that drivers and vehicles comply with safety requirements, as well as checking that they continue to satisfy relevant regulatory requirements. Operators' reliance on customer goodwill for repeat business is an important regulatory control.

In Scotland, operator licensing was deemed unnecessary when private hire licensing was introduced. However, because of a

perceived increase in concerns about public safety and public order, operator licensing was introduced in 2009.

RESPONSE

There is a strong argument that if operator licensing is necessary for private hire it should be equally necessary for taxis. The checking and maintenance of vehicles should lie with the vehicle driver. That being the case, the main role for the operator is in the provision of records listing the bookings against the allocated car and driver. Record taking is important for regulators in investigating complaints etc.

The other role of the licensing operator is to provide a point of contact for the customer in order to source a booking from a pool or fleet of licensed vehicles. This is an important role and should be preserved.

Taxis should also be required to keep records or issue receipts to passengers in order to provide a similar audit trail. Any such records should include the vehicle, driver and journey details. This record keeping would provide some level of protection to the driver against allegations. Ideally the receipt would be issued via the meter and would contain all the necessary information to enable a complaint to be investigated. A receipt book would also meet the requirement.

QUESTION 49

Should operator licensing be extended to cover taxi radio circuits and, if so, on what basis?

Unlike private hire drivers, taxi drivers may take pre-bookings directly. This means that a third party who arranges a pre-booking can, in principle, act merely as an agent and take no direct responsibility in respect of the booking.

Third-parties taking bookings on behalf of taxi drivers have no formal role in legislation but it may appear that taxi radio circuits – dispatching solely taxis – carry out a very similar function to operators.

If all third parties who invite bookings for taxis had to be licensed that would effectively ban agency arrangements. The third party

would, by statute, have to take substantial legal responsibilities in respect of the taxi service provided.

RESPONSE

Yes. Where a company controls the radio base and owns the vehicles.

PROVISIONAL PROPOSAL 50

The definition of operators should not be extended to include intermediaries.

Intermediaries may have a long-standing contract for particular events. They may also contact an operator to dispatch PHVs or taxis. In such cases, the customer is not in any meaningful way relying on the operator, but rather on the identifiable intermediary. Given this overlap, there is an issue as to whether the definition of operators should be extended to intermediaries.

Under current arrangements, customers may still have recourse through contract law if a problem arises. The operator ultimately engaged would remain liable and subject to regulation.

RESPONSE

If the intermediary is dealing only with licensed operators, then no.

If the intermediary is dealing directly with the driver of a vehicle, then yes.

QUESTION 51

Should “fit and proper” criteria in respect of operators be retained?

Currently, licences may only be granted to operators if they are “fit and proper” persons and subject to such conditions as a licensing authority may deem “reasonably necessary”. Operators are directly liable for breaches by their drivers, and vehicles.

There is evidence that initial checks on operators can yield significant intelligence useful to the police.

RESPONSE

Agree. Operators should be vetted as the nature of the work gives them access to personal information including knowledge of customer’s holidays / absences etc. All staff working for a licensed operator should also be vetted for the same reasons.

PROVISIONAL PROPOSAL 52

Operators should be expressly permitted to sub-contract services.

Where a customer contacts an operator who is unable to fulfil the proposed booking, that operator may wish to sub-contract the job to another operator.

Currently, it is illegal to sub-contract bookings elsewhere in England and Wales, whereas it is expressly permitted in London – where the original operator remains liable to the customer.

RESPONSE

Agree. The original operator as in London remains liable and records must be kept by the original operator and the one who is sub contracted.

QUESTION 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply?

The Commission does not suggest that taxi drivers should be required to obtain an operator licence to take pre-bookings. However, a requirements to keep records of pre-booked journeys might be reasonable, particularly if fare regulation did not apply to such journeys.

RESPONSE

Yes. Drivers should be expected to maintain a book of journeys that have been pre-booked. The format of such a book can be prescribed to ensure consistency across the trade.

PROVISIONAL PROPOSAL 54

Licensing authorities should no longer have the power to restrict taxi numbers.

RESPONSE

Agree. The Department of Transport guidance already states that limiting taxi numbers is not the best practice. This is a restrictive measure that has no place in a modern transport

network. Numbers of taxis will generally be dictated by supply and demand.

The cost of implementing unmet demand surveys is prohibitive and a burden the trade and licensing authorities can do without. The imposition of a restriction on numbers does nothing more than protect those who are fortunate enough to have obtained a licence prior to the numbers being capped.

QUESTION 55

What temporary or permanent problems might arise if licensing authorities lost the ability to restrict numbers?

Under current legislation, licensing authorities have the option to limit taxi numbers, but only in the absence of “unmet demand”.

Restricted numbers limit competition and so consumer choice. Quantity controls also create a market for taxi licences. In some parts of England, there is evidence that a taxi licence can command up to £60,000.

An as yet unimplemented provision of the Equality Act 2010 would further restrain authorities' scope to limit numbers by preventing the refusal of a licence to a wheelchair-accessible taxi.

As at the end of February 2012, some 93 licensing authorities had quantity controls in place. Approximately 21,000 vehicles are currently operating in areas with quantity controls, accounting for just over ¼ of all taxis operating in England and Wales.

Lack of provision can push consumers into taking unlicensed vehicles.

Taxi representative groups have highlighted the potential benefits to the public through restricting numbers which flow from a more stable and better paid trade. However, those could also be achieved through regulation targeted at ensuring appropriate quality standards.

On balance, the Commission is proposing that arguments in favour of deregulation, and for the abolition of quantity controls, are most convincing.

RESPONSE

This authority, like the majority in England and Wales does not have a limit on the number of taxis. In those authorities where there is currently a limit there is likely to be an increase in numbers. However the numbers will be dictated by market forces until a sustainable level is reached. The number of taxis in this authority has been pretty stable for many years, although within the last two years due to market factors the numbers have fallen.

QUESTION 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed?
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There is some concern that removing quantity restrictions may drive out high skilled drivers as a sudden influx of drivers could force down standards. Even if the new entrants leave after a few years, the overall standards might be lower than before the change. There would be reputational issues, too.

However, the risk of lower standards can be protected against by ensuring that new entrants are required to provide services to an appropriate standard. London is a prime example, as there are no quantity restrictions but there are stringent quality controls. Even in such circumstances, there has to be an adequate enforcement regime to monitor and enforce those standards.

RESPONSE

There would be merit in staggering the number of additional vehicle licences that could be issued over several years. This would prevent against a sudden influx which may increase numbers temporarily well above what is sustainable.

QUESTION 57

Should there be a separate licence category for wheelchair accessible vehicles? This could involve:

- a. A duty on licensees to give priority to disabled passengers; and
- b. a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles.

Ensuring proper accessibility is a priority of the Law Commission's review.

Some authorities have a policy requiring all licensed taxis to be wheelchair accessible. This guarantees a disabled person an accessible taxi. Such vehicles may not be ideal for passengers with other disabilities.

The Commission is not arguing that a percentage of taxis should be wheelchair accessible.

The Commission has considered whether a specific accessible taxi licence could be required, so that licence holders would be obliged to prioritise bookings from passengers in wheelchairs. There could be special ranks for such vehicles.

RESPONSE

I see no need to have a separate licence category, assuming that there is a policy in place that retains a level of wheelchair accessible vehicles.

This authority has a policy in place requiring that all new vehicles are wheelchair accessible, this has resulted in approximately 40% of the fleet being wheelchair accessible. Generally space at taxi ranks or space for additional taxi ranks in the authority is limited and I would see it difficult to accommodate a "special rank"

Without the policy we currently have in place, I would suggest that the percentage of wheelchair accessible vehicles currently licensed would quickly reduce to a level below 10%.

QUESTION 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards?

RESPONSE

No. Licensing authorities can only charge a fee to recover the cost of administering the function. There is already considerable pressure on licensing budgets and any reduction in the fees for wheelchair accessible vehicles would have a dramatic effect on them. If a reduction was introduced it would have to be negligible and certainly would not offset against the significant cost of purchasing and running a wheelchair accessible vehicle.

QUESTION 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and for catering for the different needs of disabled passengers?

In some countries, the licence fee for a wheelchair accessible taxi is considerably lower than for other vehicle types. This helps to offset the cost of purchasing an accessible vehicle. One option might be, therefore, to introduce a range of fees relating to vehicles that satisfy different accessibility standards.

RESPONSE

As question 58 above, the additional cost of purchasing a wheelchair accessible vehicle compared to another type of vehicle would not be offset by minor reduction in the licence fees. I would suggest that such a reduction would have little impact on the number of wheelchair accessible vehicles licensed.

I see the only real way of increasing the numbers of such vehicles is to through local or national policies.

PROVISIONAL PROPOSAL 60

The Commission does not propose the introduction of quotas for wheelchair accessible vehicles.

The Commission is not persuaded of the need for quotas because of the fluidity of the industry and because many drivers and vehicle owners are sole traders. It also recognises that quotas may not help many disabled people in a wheelchair because there is no guarantee that an accessible vehicle would be available at the time and place they required it.

RESPONSE

This authority has a policy in place requiring that all new vehicles are wheelchair accessible, existing non wheelchair accessible vehicle can still be replaced with a non wheelchair accessible vehicle. This has resulted in the desired effect to have a mixed fleet of vehicles that are capable of meeting the requirements of the general public. Approximately 40% of hackney carriages are wheelchair accessible, however it is important to note that private hire vehicles are not subject to this policy and consequently 0% are wheelchair accessible.

Although the Commission seems to be ruling out quotas, it does appear that policy is the most effective way of ensuring a sufficient percentage of wheelchair accessible vehicles.

PROVISIONAL PROPOSAL 61

National standards for drivers of both taxis and PHVs should include recognised disability awareness training.

There are plenty of examples of disabled people – in particular those in wheelchairs or with assistance dogs – having been refused service or discriminated against in the provision of a service. More needs to be done to eradicate illegal and unacceptable practices.

There should therefore be a national standard requiring all taxi and PHV drivers to complete a recognised accessibility training course as a condition of holding a licence.

Assisting a disabled person also has safety implications.

Some local authorities (e.g. South Ayrshire) have introduced a mandatory requirement for licensed drivers to attend an appropriate course.

RESPONSE

Agree. This authority does not have a mandatory requirement for such training and regularly we receive complaints from members of the public about driver's inability to safely load, secure and unload wheelchairs.

However it is a particular concern that the cost involved in such training would inevitably need to be bourn by the authority / trade. At times of financial difficulties the extent to which training is provided needs careful consideration.

PROVISIONAL PROPOSAL 62

To better address concerns about discrimination, taxis and PHVs should be required to display information about how to complain to the licensing authority.

This would be consistent with the spirit of the Equality Act 2010, because – regrettably – discriminatory practices are not rare. More can be done at local level to ensure that discrimination is not condoned. Licensing authorities should take appropriate action against licence holders who participate in discriminatory practices.

RESPONSE

Agree.

Careful consideration would need to be given to the way in which such notices were displayed in vehicles; would the signs need to be bilingual or available in Braille, large font etc. This should be neutral contact information. In other words, it should be a means for customers to report their feedback to the licensing authority both in praise or complaint

QUESTION 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them?

Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help?

Legislation already prohibits discrimination against disabled people in the provision of goods and services – including services provided in taxis and PHVs. This includes a requirement to make “reasonable adjustments” in the provision of the service, including the provision of auxiliary aids.

The law provides that there should be no additional charge for carrying an assistance dog, although this is not always followed.

Taxis are not under a general duty to stop when hailed, and the Commission does not seek to change that.

Good practice would suggest that licensing authorities should require taxis to display their availability for hire by some obvious means to the public. This, in turn, could be coupled with a requirement to stop in response to a hailing if free and safe to do so.

RESPONSE

It seems the best way of engaging with a taxi service is either on a designated taxi rank or by pre-booking. Making an obligation on a taxi to stop would be difficult to enforce as questions regarding whether there was a safe place to stop will inevitably be raised.

With the increasing availability of mobile phones and internet hotspots, I would suggest that waiting for a taxi to pass and “flagging it down” is now outdated and more emphasis should be placed on the availability of taxi ranks and advertising of taxi telephone numbers. Mobile and internet applications will surely further develop over the next few years to make the process of engaging with taxi services easier without the need for hailing.

QUESTION 64

Should authorised licensing officers have the power to stop licensed vehicles?

Breaches of taxi and PHV legislation are criminal offences enforced through magistrates' courts. Licensing authorities also have powers to suspend, revoke or refuse to renew an existing licence, and to refuse to issue licences.

Licensing officers do not currently have powers to stop a vehicle, although they can inspect licensed vehicles for fitness. This requires them to work closely with the police and the Vehicle and Operator Services Agency.

It would not be possible for a licensing officer to determine that a vehicle and driver are licensed in advance of stopping them. There are questions about the propriety of a licensing officer – rather than an uniformed police officer – approach members of the public and questioning them about their behaviour. Such powers would have to be proportionate, appropriate and accompanied by safeguards.

RESPONSE

This would be a good idea in principle, but with such power comes risk. Unlike the Police, Licensing Officers are not trained to stop vehicles and in the majority of cases do not wear uniforms. It would difficult for taxi drivers to recognise a Licensing Officer in such circumstances.

It may be better to introduce a power that Licensing Officers can direct already stationary vehicles to remain or move to a more appropriate location to be inspected. This would also prevent vehicles simply driving off when a Licensing Officer attempts to inspect the vehicle.

QUESTION 65

What more could be done to address touting (the offence in a public place of soliciting persons to hire vehicles to carry them as passengers)?

Touting can be a serious problem at airports and town centres with an active nightlife.

RESPONSE

There is already a specific offence for touting under the Criminal Justice and public Order Act 1994. In a relatively small authority like this one, touting is not a problem and one that would be dealt with by enforcement where required.

QUESTION 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules?

The Vehicle and Operator Services Agency and Traffic Commissioners are empowered to impound vehicles in respect of illegally operated public service and goods vehicles. The police have powers to seize vehicles that are operated without insurance.

If a vehicle is impounded it is for the owner to show that the vehicles has not been operated in contravention of the law. Were they unable to do so, the vehicle would be sold or destroyed.

RESPONSE

In principle this would be a useful enforcement tool to have for Licensing Officers, however the concern would be in relation to the practicalities of such a power. Having appropriate storage facilities and transporting vehicles to the storage facility would be problematic.

QUESTION 67

Should licensing authorities make greater use of fixed penalty schemes and, if so, how?

A number of road traffic offences are now classed as fixed penalty offences. A Fixed penalty Notice (FPN) may be given on the spot by authorised persons where that person has reason to believe that someone is committing, or has committed, a fixed penalty offence. They are only appropriate where the commission of an offence can be assessed objectively.

The recipient may choose to pay the fine or have the matter heard in court.

Making certain breaches of taxi and PHV legislation fixed penalty offences would reduce the number of cases reaching court, and would be consistent with the enforcement of breaches of other professional motoring requirements.

RESPONSE

Agree. This would be powerful enforcement tool for Licensing Officers as prosecution through the courts can be expensive and time consuming. Situations where such powers are available should be prescribed in legislation and should relate only to where the offence is clear and not down to one persons interpretation e.g. not displaying door signs / plates on the vehicle or some other breach of local conditions.

PROVISIONAL PROPOSAL 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas.

Currently, enforcement officers are only able to take enforcement action against vehicles licensed in the authority for which they work. Currently also, PHVs can work legally in authorities other than that in which they are licensed providing the licences held by the operator, driver and vehicle are from the same authority.

The Commission's proposals would enable private hire operators to use drivers and vehicles licensed in another authority to fulfil a booking, and it is important to ensure that enforcement systems sit properly with this greater flexibility.

RESPONSE

For this to work effectively there must be a national standard that inspections can be checked against. Currently, differences in local conditions between neighbouring authorities make such enforcement practices difficult. There is currently a major problem in the South Wales area where hackney carriage vehicles from a neighbouring authority are operating within the surrounding authorities as private hire vehicles. There are currently no enforcement powers available to officers to inspect these vehicles, they may only take enforcement action for the commission of a criminal offence.

Cross-border enforcement will be far more feasible with national standards.

QUESTION 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so, what would be the best way of achieving this?

Non-criminal sanctions can be very effective. Under the current licensing framework, only the home licensing authority has the power to take such action. As this is the licensing authority that originally granted the licence and which holds information about the licensee, this makes sense.

Under a system allowing cross-border enforcement, where a vehicle or driver licensed in one area was found to be in breach of regulations in another area, their home licensing authority would be alerted to this and expected to take appropriate action.

The authority might need to have an incentive to do so. This could be overcome by informal co-operation between licensing authorities; or by formal procedures for cross-border co-operation; or by authorities having full powers to suspend and revoke licences cross-border.

RESPONSE

Although at first sight the option of giving the power to suspend or revoke a licence to the authority where the infraction occurred has some merit, and also keeps the enforcement process within one authority, the down side is that in areas that attract large numbers of out of town drivers (such as metropolitan areas), the authority becomes responsible for bearing the entire cost of enforcement albeit that it has not received any revenue from issuing the licence.

By being able to require the issuing authority to take action against a driver, the natural balance between the number of licences issued by an authority and its responsibility to enforce its own licence conditions is recognised.

For any such system to work effectively there would need to be common standards and policies in place between authorities to prevent one authority asking another to do something that was not its own policy. It would also require a common system of delegated powers to officers to ensure that everyone knew which powers could be exercised by officers and which would require the consent of a sub-committee. For instance, in some areas, officers have the power to suspend a licence immediately in certain circumstances, but in others the decision has to be considered by a sub-committee.

Another option could be to restrict cross border enforcement to the issue of fixed penalty notices/suspensions only for prescribed offences. Revocation should be the responsibility of the home Authority after receiving written submissions from the reporting Authority.

PROVISIONAL PROPOSAL 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, the holder of the relevant licence.

Currently, there are differences in the rights of appeal available in the taxi licensing regime as opposed to the private hire regime. There are also differences in the regime that applies in London compared to that which applies in the rest of England and Wales.

The Commission's proposals envisage three main types of standards that might apply to any licensee:

- National standards for taxis and PHVs.
- Additional local standards for taxis only; and
- Individual conditions of licence.

In principle, where the challenge is to a general standard the mode of challenge should be a judicial review. A successful challenge would strike down the standard itself.

If the ability to impose individual conditions is retained, an appeal to the magistrates' court in respect of the specific condition would be appropriate.

A licensee may also wish to challenge how a standard was applied in a particular case. This would again involve a magistrates' court.

The Commission recommends that statutory rights of appeal should be limited to the applicant or licence holder, because general conditions will only be susceptible to challenge via judicial review.

RESPONSE

Agree.

PROVISIONAL PROPOSAL 71

<p>The first stage in the appeal process throughout England and Wales – in respect of refusals, suspensions or revocations – should be to require the licensing authority to reconsider its decision.</p>

London has a statutory right to require a local licensing authority to reconsider its decision. If the applicant remains unhappy they have a right of appeal to a magistrates' court. An application to a magistrates' court can also be made first, bypassing the reconsideration stage.

This option does not exist anywhere else in England and Wales. The applicant must instead appeal directly to the magistrates' court (or Crown Court).

RESPONSE

There seems little need for the Licensing Committee to reconsider its decision if no new information is being provided. If the Licensing Committee has thoroughly

examined an application etc. it should not be expected to come to anything other than the same decision.

The existing framework has worked for many years and I see no reason to change it.

PROVISIONAL PROPOSAL 72

Appeals should continue to be heard in the magistrates' court.
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This already applies in most cases, although most magistrates have little or no experience of taxi and private hire licensing issues. They are not specialists like the Traffic Commissioners or the First-Tier Tribunal (Transport).

The Commission's proposals are that only complaints about decisions that directly affect individuals (and potentially, individual conditions) would be heard before the magistrates.

RESPONSE

The Magistrates' Court appears to be the best option for dealing with appeals. Perhaps training / guidance can be issued to magistrates in respect of licensing issues i.e. taxis and alcohol licensing.

QUESTION 73

Should there be an outright right of appeal to the Crown Court?

The Commission's proposals provide a two-step appeal system, with decisions first subject to reconsideration by the authority followed by a right of appeal to magistrates. This should provide adequate safeguards, but retaining an onward right of appeal to the Crown Court would be desirable given the possible impact on livelihoods.

RESPONSE

Agree.

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September, 2012

Our responses to The Law Commission's:

PROVISIONAL TAXI & PRIVATE HIRE REFORM PROPOSALS & QUESTIONS

Provisional proposal 1 Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. (Page 160) – *disagree*.

One of the main problems with the current system is that the differences between the two types of taxis (hackney:private hire) is too great. Your main proposal will maintain this excessively wide distinction, and in doing so, it will cause unnecessary difficulties for implementation and enforcement.

You have identified the three main taxi markets: 1) Rank; 2) Hail; and, 3) Pre-booked, which indicates that any new system of licensing should pay close attention and be relevant to these three different aspects, which suggests an appropriate system of licensing should have three tiers of vehicle licenses to reflect the three main markets.

As the theoretical and operational gap between taxis and PHVs is too wide, we believe there would be much benefit in establishing another level of taxi between the two in your main proposal. The new extra level would be for a second tier of taxis that could accept pre-booked fares; be hailed on the streets; and could pick-up at ranks when there is excessive demand, but could not stand and wait at the ranks when there is no immediate demand. This approach could simplify and address many of the problems connected with a two-tier system that distinguishes between taxi and private hire only.

Problems of over-ranking caused by creating too many taxis too quickly could be significantly reduced under a three-tier system, as the probable increase in taxi numbers would be split into two groups, which could avoid the possibility of having to consider phasing in a move to no quantity controls, as the initial clamour for ranking licences would be greatly reduced by the lower cost option of the second tier taxi-to-hail licences.

Ranking taxis could be of regular, uniform colour and a more specific type of vehicle that would allow greater accessibility for the disabled and wheelchairs, whereas taxis-to-hail (hailers/floaters) could come from a wider range of vehicle types and colours as they would not have to have special features, like wheelchair accessibility. Floaters could also

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have the option to use all types of vehicles, including the disabled access ones used by the rankers.

If a two tier system of taxis is to prevail, then the main difference between the two tiers should be for those taxis that can rank at all times and those that can only pick-up at ranks during busy peak periods, as and when required by immediate local conditions.

All taxis should be allowed to accept pre-booked fares and be hailed on the street. Fares for ranked and hailed taxis should be set by local licensing authorities, but pre-booked fares should not be – leaving them to the competitive nature and forces of a freer market which will provide taxi customers with that all important element of competitive pricing and choice.

There should be unrestricted numbers for both types of taxis and topographical and other types of knowledge tests, like safety and disability awareness, should be required.

While it is possible that there may be too many ranking licences issued in relation to the number of spaces available on the ranks, this should merely encourage rankers to make more of an effort to do pre-booked work at competitive prices.

The question for any local licensing authority of when, or during what time periods, should special licences be granted for extra taxis is resolved by allowing hailers to pick-up at ranks when customers are waiting and there are no rankers on stand. There could also be some benefit in allowing taxis from neighbouring authorities to pick-up at busy times.

As most of the new taxis-to-hail would likely come from the private hire sector, and finding that there is relatively little hail work available, the drivers will be so familiar with the pre-booked market that it is likely that they will not have a problem with continuing to focus on that type of work.

PRIVATE HIRE'S DISCONTENT

A big issue for many private hire drivers is that they see themselves as self employed taxi drivers who are being overly impeded by the current laws as to how they can work and go about getting fare paying passengers.

An option to upgrade to a taxi with hailing status that could pick-up at ranks when needed would be most welcome and would generally satisfy private hire drivers' desire and ambition to have similar status to current hackney taxis.

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THERE SHOULD BE ONLY ONE TAXI DRIVER LICENCE

A taxi driving licence should cover a driver to drive all types of taxi vehicles, regardless of the type, category or tier system that is chosen.

PHV drivers, outside of London, are fully aware of the fact that they can switch to being hackney taxi drivers very easily. A quick visit to the home licensing service with the appropriate change of driver-licence-type fee and the job is done – a PHV driver becomes a hackney taxi driver almost immediately for a small fee and, often, no extra effort or requirements. Where is the difference between the two types of driver licence then? You may wonder as we drivers often do.

So, as PHV and hackney drivers can swop back and forth between the two types of licence, it becomes almost impossible to accept that there is any difference between the two jobs. And so, when it comes to driver licences for hackney and private hire, there should really only be one licence that allows a driver to drive both types of vehicle.

OPERATOR LICENCES AND FEES SHOULD BE MORE RELEVANT

The high operator licence fees charged by some authorities can seem to bare little correlation to the actual cost to the authority or the purpose of the licence. It can feel like they are deliberately trying to prevent smaller traders from entering the pre-booked private hire market.

Currently, most PHV drivers have to join large radio/data based circuit systems in order to make it work, as it is often impracticable for them to do otherwise due to operator licence fees and licensing requirements being overly excessive and restrictive. This often prevents small private hire operating business traders and start-ups from competing in one of the busiest sectors of the pre-booked market – the evening and weekend social sector. While those who are allowed to compete, like hackney licensed drivers, generally don't make an effort because they tend to feel they can't afford to because of the high costs to themselves, brought about mostly by fleet owners charging exorbitant vehicle settles.

PRIVATE HIRE AS A THIRD TIER

The concept of private hire could be retained as a third-tier of hire-and-reward, which could be applied to those transport services which lack a sense of immediacy – i.e.

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booked to go in more than 15 minutes time - like limousines, weddings, funerals, executive and other types of novelty vehicles – or are not for profit based enterprises, like volunteer ambulances, etc.

REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2 London should be included, with appropriate modifications, within the scope of reform. *(Page 162) - agree*

Provisional proposal 3 The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. *(Page 164) - agree*

Question 4 Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? *(Page 164) - Simplicity and Clarity*

Provisional proposal 5 Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. *(Page 165) - don't know*

Provisional proposal 6 References to stage coaches charging separate fares should no longer feature as an exclusion from the definition of taxis. *(Page 166) - agree*

Provisional proposal 7 The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. *(Page 167)*

Provisional proposal 8 The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. *(Page 168) - agree*

Question 9 How, if at all, should the regulation of taxis and private hire deal with:

(a) carpooling - *should be outside the scope of this legislation*

(b) members clubs - *as per your examples, should be included.*

(Page 170)

Provisional proposal 10 The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the

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taxi and private hire licensing regimes. (Page 171) - *agree*

Provisional proposal 11 Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. (Page 172) - *agree*

Question 12 Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse? (Page 174) - *Unclear or uncertain benefits.*

Provisional proposal 13 Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets". (Page 175) – *agree*

Question 14 Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? (Page 177)
Yes there is. Airports should be obliged to allow a shuttle service.

Provisional proposal 15 The defining feature of taxis, the concept of "plying for hire", should be placed on a statutory footing and include: *Yes - agree*
(a) references to ranking and hailing;
(b) a non-exhaustive list of factors indicating plying for hire; and
(c) appropriate accommodation of the legitimate activities of private hire vehicles. (Page 181) *You should not do any of proposal 15 in preference to a two-tier system of taxis consisting of those that can rank and those that cannot rank outside of pre-determined busy, peak periods.*

Provisional proposal 16 The concepts of hailing and ranking should not cover technological means of engaging taxi services. (Page 181) - *agree*

Question 17 Would there be advantages to adopting the Scottish approach to defining taxis in respect of "arrangements made in a public place" instead of "plying for hire"? (Page 182) *No - There appears to be no really useful reason to do this. Within what time frame is 'there and then' - limits choice and competition.*

Provisional proposal 18 The concept of compellability, which applies exclusively to taxis, should be retained. (Page 182) - *agree*

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Provisional proposal 19 Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. (Page 183) - *agree*

Provisional proposal 20 Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved. (Page 184) - *agree*.

Provisional proposal 21 The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements. (Page 185) - *agree*

Provisional proposal 22 Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned. (Page 185) - *agree*

Question 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion? (Page 186) - *As private hire’s predominant function is to provide a taxi service, the trade should always be allowed to use the word taxi in adverts and on vehicles, ie ‘private hire taxi’ or ‘pre-booked taxi’ services.*

A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24 Taxi and private hire services should each be subject to national safety requirements. (Page 188) - *agree*

Provisional proposal 25 National safety standards, as applied to taxi services, should only be minimum standards. (Page 189) - *agree*

Provisional proposal 26 National safety standards, as applied to private hire services, should be mandatory standards. (Page 189) - *agree*

Provisional proposal 27 Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer

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apply to private hire drivers. (Page 190) – *disagree. This would harm professional standards and public perceptions.*

Question 28 Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? (Page 190) *Vehicle signage for PHVs is important and should be allowed.*

Question 29 What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? (Page 191)

Question 30 Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (Page 192) *-no*

Provisional proposal 31 The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety. (Page 192) - *agree*

Provisional proposal 32 The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. (Page 193) - *agree*

Question 33 What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? (Page 193)

Provisional proposal 34 Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. (Page 193) - *agree*

Question 35 Should there be statutory limits to licensing authorities' ability to set local taxi standards? (Page 194) - *Yes*

Question 36 Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? (Page 194) -

Question 37 Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? (Page 195) - *Statutory footing*

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Provisional proposal 38 Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. (Page 196) - *agree*

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. (Page 196) - *agree*

Question 40 Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? (Page 197) - *yes, as an add-on to existing vehicle licences, i.e. Allowing private hire to be hailed at specific times.*

Provisional proposal 41 Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. (Page 198) - *Strongly agree, and licensed drivers should not be restricted to driving only vehicles licensed by their driver licensing authority- they should be allowed to drive vehicles licensed by any authority.*

Provisional proposal 42 We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs. (Page 199) – *agree*

Provisional proposal 43 Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares. (Page 200) - *agree*

Question 44 Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (Page 200) – *yes*

REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING

Question 45 Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 203) - *a combination of both could be used.*

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Provisional proposal 46 Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. (Page 204) – *agree*

Question 47

Should national vehicle safety standards be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 205) – *a combination of both could be used.*

Provisional proposal 48 Operator licensing should be retained as mandatory in respect of private hire vehicles. (Page 206) – *agree*

Question 49 Should operator licensing be extended to cover taxi radio circuits and if so on what basis? (Page 208) – *Yes, most definitely. As there is no real difference between what taxi dispatchers and private hire operators do, the arguments for and against licensing should apply to both equally – justification: same reasons and provisions as applied to private hire circuits.*

Provisional proposal 50 The definition of operators should not be extended in order to include intermediaries. (Page 209) – *agree with reservations. Intermediaries should really be required to have an operator licence if we are to avoid the question of: when, or at what point, does an intermediary become an operator?*

Question 51 Should “fit and proper” criteria in respect of operators be retained? (Page 209) – *Yes*

Provisional proposal 52 Operators should be expressly permitted to sub-contract services. (Page 210) – *agree strongly*

Question 53 Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? (Page 210) – *yes, most definitely*

REFORMING QUANTITY CONTROLS

Provisional proposal 54 Licensing authorities should no longer have the power to restrict taxi numbers. (Page 213) – *agree strongly*

Private Hire Drivers

Web: [REDACTED] Email: [REDACTED]

Member of The National Private Hire Association

Question 55 What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? (Page 213)

Under your main two tier proposal 1: There wouldn't be enough spaces on the ranks as most private hire drivers would switch to being taxi drivers to allow the extra options for gaining fares and bookings.

Question 56 Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed? (Page 215) – *No. This would merely delay eventual outcome of over-ranking.*

TAXI AND PRIVATE HIRE REFORM AND EQUALITY

Question 57 Should there be a separate licence category for wheelchair accessible vehicles? This could involve:

(1) a duty on the licensee to give priority to disabled passengers (**yes**) ; and
(2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. (Page 217) - *Yes - Only taxis that are wheelchair accessible vehicles should be allowed/licensed to rank. This should naturally produce enough of this type of taxi in the right places.*

Question 58 Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? (Page 217) - *Maybe – though, the incentive should be a more options one, like the ability to rank.*

Question 59 Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? (Page 217) - *Only allowing wheelchair accessible taxi vehicles to rank will provide local communities with more than enough of this type of vehicle.*

Local licensing authorities could test drivers' willingness to take disabled passengers with more enforcement actions from mystery shoppers – with fixed penalties or disciplinary action for those who are in-compliant.

Provisional proposal 60 We do not propose to introduce national quotas of wheelchair accessible vehicles. (Page 218) - *agree*

Provisional proposal 61 National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. (Page 219) - *agree*

Private Hire Drivers

Web: [REDACTED] Email: [REDACTED]

Member of The National Private Hire Association

Provisional proposal 62 In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. (Page 219) - *agree*

Question 63 What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? (Page 220) – *The time and effort taken to load and unload wheelchairs and disabled passengers can be an issue that could be resolved by allowing an increased fare, one that at least allows taxi drivers to start the meter before beginning to assist loading the passenger. An obligation to stop should also be imposed.*

REFORMING ENFORCEMENT

Question 64 Should authorised licensing officers have the power to stop licensed vehicles? (Page 222) - *Yes*

Question 65 What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”. (Page 223) - *Problem areas could be policed better with more enforcement.*

Question 66 Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? (Page 223) – *Yes, though only for serious offences.*

Question 67 Should licensing authorities make greater use of fixed penalty schemes and if so how? (Page 225) – *Yes.*

Provisional proposal 68 Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. (Page 225) - *agree*

Question 69 Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? (Page 226) - *Formal procedures for cross-border cooperation are likely to be best.*

REFORM OF HEARINGS AND APPEALS

Private Hire Drivers

Web: [REDACTED] Email [REDACTED]

Member of The National Private Hire Association

Provisional proposal 70 The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. *(Page 230) - agree*

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. *(Page 231) - agree*

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court. *(Page 232) - agree*

Question 73

Should there be an onward right of appeal to the Crown Court? *(Page 233) - Yes*

Yours faithfully,

Secretary
[REDACTED]

From: Chris Kift [REDACTED]
Sent: 10 September 2012 10:46
To: Uguccione, Jessica; 'Geraldine Desmoulins'
Cc: 'Jon Hastie'; TPH
Subject: RE: The second to none service in Brighton and Hove.

Hello all City cabs have been in touch and I am joining the Drivers Forum on October 11th personally and not as a Fed rep. I agree that this could have been more serious, but it wasn't and it has flagged up the problems and I feel that we can move on by increasing the training programme ensuring that there are refresher courses at least every 3 years to keep people up to date. I have said that I am happy with the way the driver has been dealt with by City cabs and the licensing dept. of BHCC. The driver Steve is undergoing retraining as we speak and has donated his days wages to the charity of my choice (Gay Pride and the Fed) and accept the "Human Error" judgement. It is time to move on with my requests for a mixed fleet in Brighton and Hove and I will not be happy until anyone can ring and get a safe and suitable taxi without having to do it hours in advance..

Chris Kift

Chair of BHCC City Assembly
Member of the Tenant Disability Network
Member of the Fed for Independent Living
St James' House & Ardingly Court Community Assoc.

From: Uguccione, Jessica [mailto:Jessica.Uguccione@lawcommission.gsi.gov.uk]
Sent: Monday, September 10, 2012 10:10 AM
To: 'Geraldine Desmoulins'
Cc: 'chris.kift@sky.com' (chris.kift@sky.com); Jon Hastie; TPH
Subject: RE: The second to none service in Brighton and Hove.

Hi Geraldine,

Thank you again for letting us know about this and sharing your views with us.

Chris, I am so sorry about what happened and please let us know how your complaint is handled. We will treat this thread of messages as a personal response by yourself and Geraldine. And we will look forward to reading the Fed response also.

With all best wishes!
Jessica

From: Geraldine Desmoulins [mailto:Geraldine.Desmoulins@lawcommission.gsi.gov.uk]
Sent: 07 September 2012 12:09
To: Uguccione, Jessica
Cc: [REDACTED] Jon Hastie
Subject: RE: The second to none service in Brighton and Hove.

Hi Jessica

I have copied in Chris Kift who gave me permission to let people know about the incident. Jon will be putting in a response from the Fed. I am sure Chris would be happy for you to use this for the consultation. Chris has put in a formal complaint not sure how they have responded to him as yet. If I am not satisfied by their

response I will consider putting in a complaint from the Fed because we hired the taxi in the first place.

The proprietor of City Cabs has said that HCO has put it down to "human error" whatever that is supposed to mean? The proprietor keeps saying that it was just a mistake and says that this driver was one of his most experienced and he has never had a complaint about him before and I am just over reacting!!!! It makes you wonder what sort of "human errors" his less experience drivers are making? Not sure what they are going to do I have advocated retraining which allegedly is going to happen but I unsure who checks that it has in fact happened. We have no idea of the quality of the training either.

Chris I am sure you would be happy to give the Law Commission an update on how they are dealing with your complaint and the final outcome.

Really I think they consider it's all a storm in a teacup I am having my usual rant, they do not seem to able to see the bigger picture. If the driver was adequately trained and knew the risks this type of incident would not happened also the steepness of the ramps really does make this vehicle inaccessible to a majority of disabled people. it is an absolute blessing that Chris wasn't really badly injured.

Regards
Geraldine
Geraldine Des Moulins
Chief Officer



The Fed Centre for Independent Living is a user led organisation that promotes independent living for all. The Fed works towards equality by inspiring disabled people to identify barriers and define solutions. To find out more about our work please go to our website [w \[redacted\]](#) or [\[redacted\]](#)

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Registered Charity No. 1114435 Co No. 05706441

From: Uguccioni, Jessica [redacted]
Sent: 06 September 2012 10:40
To: Geraldine Desmoulins
Subject: RE: The second to none service in Brighton and Hove.

Dear Geraldine,

Many thanks for passing on the message below - I am so sorry to hear this but also very grateful that you shared it with us. May I ask whether you are putting in a complaint?

And would you like us to treat this as a consultation response on behalf of an individual? Or if the FED is planning to submit a response to the consultation paper perhaps this could be included in that as an example of the existing problems?

I really hope we will be able to encourage change that would help prevent incidents such as those described below.

Kind regards,
Jessica

From: Geraldine Desmoulins [mailto:G [REDACTED]]
Sent: 05 September 2012 18:06
To: Uguccioni, Jessica
Subject: The second to none service in Brighton and Hove.

I afraid my journey home from Preston Park pride event was horrendous, I was using a cab that was supplied by the Fed for independent living who had ordered a rear entrance cab from 205205, first I had to go down to the bus stop on London Rd and then found it was a side entry vehicle. The driver moaned about power chairs being a nuisance so I told him the problem was with the cab not the power chairs. So going in up a steep ramp hitting my head on the top of the doorway I was in broadside to the driver, when I asked him where the straps were and he said "Oh no, you don't want them do you. I'm going to have to take the back seats out if you want to be secured" I was too tired to argue and asked him just to get me home. On arrival at St James' House he pulled in across the road and asked me if I wanted to back out or go forward, so I told him forward and he put the ramp out. On getting on the ramp I realised it was too steep and stopped the chair, it then proceeded to SLIDE down the ramp with the brakes on tipping me out of the chair on to the pavement hurting my knees and banging my head. Security men from the St James's St party came and helped me up asking if I wanted to be looked over by the St John, I said thank you and refused. The driver Steve was very worried and I said that I just wanted to go home and did. I think if I backed out I would have hurt myself worse by hitting the back of my head on a concrete fence.

These taxi firms need to get their act together and realise the difference between a standard wheelchair and a power chair, This can't go on, I have been left in a Moulscombe car park in the dark for over an hour when 747474 sent the wrong cab after 2 days' notice of the job, late for a friends funeral after giving 24 hrs. notice, again the wrong cab first time. The two major taxi firms seem to think they know better when I ask for a rear entrance, low floor Peugeot or Citroen cab as they are the only one I feel safe in. as for Brighton and Hove being well served for accessible cabs it's a joke and you and the taxi firms ought to speak to the users, the people in the wheel chairs and with guide dogs or the elderly with stiff joints. There is no one size fits all and the drivers need more training than they're getting.

Geraldine Des Moulins
Chief Officer
Office: [REDACTED]
Mobile: [REDACTED]
[REDACTED]



The Fed Centre for Independent Living is a user led organisation that promotes independent living for all. The Fed works towards equality by inspiring disabled people to identify barriers and define solutions. To find out more about our work please go to our website [w](#) [REDACTED] or [REDACTED]

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I'm Gill Barry Vice Chair of the Crewe and Nantwich Branch of the Federation of Small Business and I operate a 3 car Classic Wedding Car company. [REDACTED]

I like all of my colleagues in the industry are appalled at the prospect if legislation concerning the hire of wedding cars is agreed. The proposals by the Law Commission would mean wedding car operators would need an operator's licence and our cars would be subject to a taxi-style MOT. Which they suggest is twice a year. All drivers (chauffeurs in my case) would also have to undertake a medical test, a criminal records check and be expected to pay for expensive licences. I in fact used to operate a taxi business and at the time I required 5 licences and I only operated one car. I need hardly emphasise the fact there is a lot of money involved here for each car. Ludicrously, from November, classic cars (many of which are run as Wedding Cars) no longer need to be MOT'd

My arguments against this preposterous proposal are:

The combined mileage of my three cars for my financial year July 2011/June 2012 was approximately 450 miles. **A TAXI DRIVER (1 CAR) COULD COMPLETE THAT IN ONE DAY.**

My wedding Car insurance allows me to complete 3000 miles per annum for three cars. **A Taxi Company (1 car) could complete this amount in one month.**

Damian Jones of auctioneers H&H has pointed out that Bentleys and Rolls-Royces which dominate wedding car fleets already have high survival rates due to the **quality of their construction**. They consider that 5000 vehicles will flood the market and estimate that 15% drop in prices instantly.

An article in the Classic Car weekly suggests that single car owners would be £664. out of pocket and would also have to pay an additional £261 for an additional car and £330 per driver. In my case this would amount to nearly £2200. This would mean that I would have to make my hire charge more expensive which would completely price me out of the market. Two of my cars the Bentley and the Daimler mpg is between 10 and 15 each. My Mercedes is 25 approx. **Most taxis run diesels which can amount to 50 – 60 mpg. .**

Gillian Anne Barry [REDACTED]
email [REDACTED]

Public Law Team (Taxi and Private Hire)
Law Commission
Steel House
11 Tothill Street
London
SW1H 9LJ

Our Ref:

Your Ref: Taxi and Private Hire

Date: 10 September 2012

Email: tph@lawcommission.gsi.gov.uk

Fax: 020 3334 0201

Dear Sir / Madam,

Response to the consultation in relation to the provisional proposals to reform the law of taxi and private hire services

By way of background information:

- DG Cars are a major provider of employment and the largest licenced private hire operator in Nottingham with in excess of 440 licensed vehicles, almost a quarter of the total private hire fleet in Nottingham.
- DG Cars undertake approximately 28,000 bookings every week. The average number of passenger carried per journey is between 2.4 and 2.5. This equates to between 65,000 to 70,000 passenger journeys per week and between 3.38 to 3.64 million passenger journeys every year.
- At the present time there are approximately 435 hackney carriages and 1,700 private hire vehicles licensed by Nottingham City Council, which will, if the above figures are extrapolated to all licensed vehicles, undertake between 17.31 and 18.04 million passenger journeys per annum.
- Bus usage in Nottingham remains relatively static at around 65 million passenger journeys per year.
- The Nottingham Express Transit (tram) completed 9.74 million passenger journeys last year.
- As a whole the taxi and private hire trade are completing almost double the number of passenger journeys that the tram completes – which is quite a statistic! These figures clearly show that the hackney carriage and private hire sector is the second largest public transport provider in Nottingham and, as previously stated, the only

24/7 service operating a door to door public transport service every day of the year. The trade as a whole should therefore be acknowledged and assisted by the Council to evolve and develop in a manner that is beneficial to all.

Prior to dealing with the provisional proposals I should like to comment on local conditions in Nottingham. There are currently two significant issues that affect the private hire trade which are not covered by your review and these are the failure of local authorities to allow private hire vehicles to use bus lanes when hackney carriages are granted that privilege. In a similar manner local authorities also prohibit private hire vehicles from accessing some areas of the city centre while allowing hackney carriages to do so. In essence these restrictions, not only affect trade, but discriminate against our customers, especially those with disabilities (including wheelchair users), because they are prevented from being dropped off or picked up close to the place of their choice and may also incur additional costs from standing in traffic when the adjacent bus lane is empty. While we appreciate that it is unlikely that you will expand the scope of your review to cover bus lane usage and prohibitions preventing vehicles accessing specified areas, it may be that these issues can be raised with the Department of Transport for them to consider in the near future.

Rather than attempt to comment in detail on each and every provisional proposal and question posed in the consultation paper, I limit my submission to matters referred to as, or associated with, the key proposals in the summary document.

Whilst I appreciate there are others who consider there is no need for legislative reform, I cannot agree with them – the law is antiquated and incapable of dealing with the issues that arise from the use of modern technology; the different standards applied by different councils confuses the public; and the lack of national standards not only creates the possibility that some councils may have set inappropriate standards, but prevents effective enforcement outside the area of the council that licensed a vehicle and its driver.

I agree with the Law Commission that two tiers should be retained and London should be regulated by the same flexible framework that is proposed for the rest of England and Wales. Issuing statutory guidance to licensing authorities would reduce inconsistencies between them and promote consistency with VOSA in relation to licensing limousines.

The creation of a wheelchair accessible category of vehicle would blur the distinction between the two tiers. Whereas a limousine will only ever be pre-booked and a pedicab will only ever be hired in the street, wheelchair accessible vehicles must remain in both tiers to ensure that the needs of wheelchair users are met.

When setting national standards, the Law Commission must focus on only those matters that truly need to be set nationally, namely those relating to vehicle roadworthiness (and possibly exhaust emissions) and driver standards, including disability awareness.

Issues relating solely to taxis, such as driver and passenger safety, accessibility, vehicle manoeuvrability (and exhaust emissions), matters of civic pride and any additional criteria for drivers are all matters that should be determined by individual licensing authorities.

Any requirements relating to the display of plates and signage (including any provision for exemption from display) by private hire vehicles should only be those prescribed by national standards.

Powers of enforcement in relation to national standards of roadworthiness should not only be exercisable nationally by a police constable, but should be extended to authorised

officers of all licensing authorities and to VOSA officers, subject to them all being appropriately trained and acting in accordance with statutory guidance.

If officers of those agencies were trained to a national standard of competence, all could be authorised to issue fixed penalty notices for vehicle unroadworthiness and empowered to remove a vehicle licence plate immediately upon suspension of the licence.

If the fines paid in relation to such fixed penalty notices were collected in the same way as any other motoring fixed penalty fine, the revenue could be distributed between licensing authorities, police forces and VOSA to provide appropriate funding for future enforcement.

Police powers should be extended to provide for the seizure of unlicensed vehicles used for licensable purposes, with the courts being empowered to order forfeiture and the proceeds of any such sale to be used solely for the purpose of funding future enforcement.

By financing enforcement costs with revenue from fixed penalty and court imposed fines, and the proceeds of sale of court forfeited unlicensed vehicles, the only costs to be paid by an applicant would be those relating to processing and determining their application. The fees to be charged for making an application (as opposed to being paid on grant) should be set nationally, if standards are set nationally. If a licensing authority were to impose additional requirements for taxis, the costs relating to those requirements should be set and charged by the licensing authority in addition to nationally set licensing fees.

Councils should retain, and Transport for London should be given, the ability to impose quantity restrictions for taxis, because in some areas regulating numbers is the only way to prevent over-ranking and obstruction (which can give rise to public disorder), congestion and pollution by oversupply. The creation of a single tier would exacerbate those problems and create new problems relating to when and where a single tier taxi could stand or ply for hire.

The ability to introduce peak time only taxi plates, in areas imposing quantity restrictions, might provide the means to meet peak and off peak demand, with numbers of vehicles appropriate for the levels of demand at those different times. However, because the introduction of such plates would be likely to confuse the public and create another regulatory burden to be enforced, I am opposed to their introduction.

If new legislation included a statutory definition of 'plying for hire', there would remain circumstances in which a vehicle hire resulted from facts that were neither plying for hire nor pre-booked. Rather than defining 'plying for hire', new legislation should make all arrangements for hiring a vehicle with up to eight passenger seats illegal, unless permitted by a licence, or exceptionally the type of vehicle or its use are exempt from licensing by the Secretary of State and Welsh Ministers.

As public safety is a key justification for licensing taxi and private hire services, anyone who provides passenger transport must be subject to licensing, even if that service is provided under contract with a public authority, ancillary to their main business activity or voluntarily. The impact that may have on restricting the use of vehicles by unlicensed drivers could be eliminated by permitting unlicensed drivers to use licensed vehicles for leisure or other purposes, subject to there being a presumption that an unlicensed driver carrying passengers would be acting illegally, unless they were able to prove that such passengers were not being carried for a licensable purpose.

Operator licensing should apply to anyone who is concerned in accepting or managing bookings for taxis or private hire vehicles, because otherwise anyone wishing to avoid regulatory control could circumvent it by describing themselves as an intermediary.

Regulating the activities of taxi and private hire operators and intermediaries is not only necessary to ensure that potentially sensitive customer information is kept safe, but also because it contributes to protecting the exclusive right of a taxi to stand and ply for hire.

Despite the fact that taxi booking agents are wholly unregulated and London private hire operators are already permitted to sub-contract bookings to an operator anywhere in England, Wales and Scotland, no taxi booking agent or London private hire operator has become dominant nationally. If the ability to sub-contract bookings to a licensed operator anywhere in England and Wales (and Scotland) was extended to all operators, I do not believe this would result in monopolistic market domination, as long as the ability to become licensed as an operator was not made financial prohibitive by regulation.

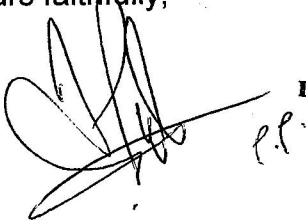
Whilst some may be concerned that removing the requirement for private hire vehicle, driver and operator licences to be issued by the same authority will reduce regulatory control, attaching appropriate conditions to licences and linking them with criminal and civil sanctions should maintain, if not improve regulatory control.

Public safety would be enhanced by improving the public's understanding of the intrinsic differences between the two tiers by replacing the existing legal terminology with clearly understood alternatives, such as taxi and booked or pre-booked taxi.

In addition,

I hope my views will help the Law Commission refine its proposals for reforming the law of taxi and private hire services, and look forward to seeing its final report and draft Bill when they are published.

Yours faithfully,



MR A JAVID

D G PRIVATE HIRE
LITTLE TENNIS ST
NOTTINGHAM
NG2 4EL
TEL 0115 9607607
VAT REG No. 118 176

From: Laurentino Quiroga [REDACTED]

Sent: 10 September 2012 11:18

To: TPH

Subject: RICKSHAWS, PEDICABS

I consider that rickshaws companies should have two different licenses:

One for those companies that want to carry out short distance transport services like the ones currently operating in London and other for those companies that want to set up an innovative, creative and permanent tourism and entertainment business.

Also councils should have powers to decide what kind of rickshaws companies can operate within their area, if rickshaws for short distance transport services or rickshaws for tourism and entertainment.

Rickshaws for short distance transport services should;

- Be given rank points.
- Be given a fares police, according to the distance
- Be able to work at any time
- Be considerate a transport system in the UK.

Rickshaw for tourism and entertainment services should:

- Operate in places of great affluence of tourists.
- Be given fixed routes.
- Have fixed pick up and drop off points.
- Have a strict police of fares.
- Be innovative and creative; in accordance with the place they are operating. Not speakers, Not ringing bells
- Allowed to work only in certain hours, to avoid operating during pick hours.

Of course, both kinds of companies must meet all the standards required: insurance, drivers training, among others.

Many Thanks

Laurentino Quiroga
[REDACTED]

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APPENDIX A

LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

CHAPTER 13 - OVERVIEW OF PROVISIONAL REFORM PROPOSALS

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. *(Page 160)*

SMDC response - Agree

CHAPTER 14 – REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. *(Page 162)*

SMDC response - Agree

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. *(Page 164)*

SMDC response - Agree

Question 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? *(Page 164)*

SMDC response – There may be certain advantages to restricting licensing to motor vehicles. The main one being less of a burden on Local Authorities (LA's) having to regulate Pedicabs, Horse and Carriages etc. It seems sensible that there could be a duty for operators of non-motor vehicles to register with the LA as opposed to the requirement of a licence

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. *(Page 165)*

SMDC response - Agree

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. (Page 166)

SMDC response - Agree

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. (Page 167)

SMDC response - Agree

Provisional proposal 8

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. (Page 168)

SMDC response – Agree. Would businesses that offer transport as an ancillary benefit to their main business (e.g. garages, B&B’s that pick people up from home, train stations etc) still require a private hire operator, vehicle and river licence?

Question 9

How, if at all, should the regulation of taxis and private hire deal with:

(a) carpooling; and *SMDC response – Exemption, but with criteria set down that explains the cross over between carpooling and private hire*

(b) members clubs? (Page 170) *SMDC response – To require at least drivers and vehicles to be licensed, if not operators as well for private hire. To fall within the same or similar mandatory safety conditions as proposed for PHV’s and drivers.*

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. (Page 171)

SMDC response - Agree

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. (Page 172)

SMDC response – Disagree. We can see no good reason to licence funeral cars, and think that if there was a statutory definition of what a ‘wedding car’ could do without a licence (e.g. only taking wedding party to marriage venue, or between venues etc) then it would seem an unnecessary burden on businesses and LA’s alike to licence them.

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers’ exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse? *(Page 174)*

SMDC response – Yes we believe so. We agree with the proposals outlined in the consultation document that the exemption should relate to specific vehicles, there should be a specified length of contract and only allow where the customer is a public sector organisation.

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to “streets”. *(Page 175)*

SMDC response - Agree

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? *(Page 177)*

SMDC response – It would seem to make sense to have special provisions in respect of taxi and private hire regulation at airports, including the obligation to allow a shuttle service.

Provisional proposal 15

The defining feature of taxis, the concept of “plying for hire”, should be placed on a statutory footing and include:

- (a) references to ranking and hailing;
- (b) a non-exhaustive list of factors indicating plying for hire; and
- (c) appropriate accommodation of the legitimate activities of private hire vehicles. *(Page 181)*

SMDC response – Agree with (a), (b) and (c)

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. *(Page 181)*

SMDC response - Agree

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”?
(Page 182)

SMDC response – No, we believe that in adopting the Scottish approach it would make it more difficult for LA’s to enforce on Private Land (if that proposal also goes ahead) and that it would be more appropriate to keep the concept of ‘plying for hire’ if it were given a statutory definition.

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained. (Page 182)

SMDC response - Agree

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. (Page 183)

SMDC response - Agree

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.
(Page 184)

SMDC response - Agree

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements.
(Page 185)

SMDC response - Agree

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned.
(Page 185)

SMDC response - Agree

Question 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion? (Page 186)

SMDC response – Yes, we believe it would benefit Private Hire Operators

CHAPTER 15 – A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements. (Page 188)

SMDC response - Agree

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards. (Page 189)

SMDC response - Agree

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. (Page 189)

SMDC response - Agree

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers. (Page 190)

SMDC response – Agree, but would LA’s still be able to licence drivers with a joint Hackney Carriage (taxi)/Private Hire drivers badge meaning conditions such as the requirement to complete a topographical knowledge test could still apply?

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? (Page 190)

SMDC response – It would be beneficial to retain the local standard setting in regards of vehicle signage, but also if there were a national guideline as to what is appropriate.

Question 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? (Page 191)

SMDC response – The main obstacle would be setting a suitable standard that the majority of current operators, vehicle owners could meet either currently or after a transitional period. A large range of vehicle types, sizes, ages are currently allowed under each individual LA's policy.

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (Page 192)

SMDC response – Yes but they should be as prescriptive as possible.

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety. (Page 192)

SMDC response - Agree

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. (Page 193)

SMDC response - Agree

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? (Page 193)

SMDC response – To consult widely with Responsible Authorities such as VOSA, Police, HSE to determine their view on suitable minimum/mandatory standards. A technical advisory panel that was made up of members of the above and others should be consulted.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. (Page 193)

SMDC response - Agree

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? (Page 194)

SMDC response - Agree

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? (Page 194)

SMDC response - Agree

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? (Page 195)

SMDC response – There should be a minimum of what is expected between LA's set on a statutory footing.

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. (Page 196)

SMDC response - Agree

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. (Page 196)

SMDC response - Agree

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? (Page 197)

SMDC response – No need in our area but can see the benefit if properly regulated and enforced in city centres, large scale sporting and tourist attractions etc

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. (Page 198)

SMDC response - Agree

Provisional proposal 42

We do not propose to introduce a "return to area" requirement in respect of out-of-area drop offs. (Page 199)

SMDC response - Agree

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares. (Page 200)

SMDC response - Agree

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (Page 200)

SMDC response – Yes if agreed and recorded at time of booking

CHAPTER 16 – REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING

Question 45

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 203)

SMDC response – Set out in Primary Legislation

Provisional proposal 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. (Page 204)

SMDC response - Agree

Question 47

Should national vehicle safety standards be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 205)

SMDC response – Set out in Primary Legislation

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. (Page 207)

SMDC response - Agree

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? (Page 208)

SMDC response - No

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. (Page 209)

SMDC response - Agree

Question 51

Should “fit and proper” criteria in respect of operators be retained? (Page 210)

SMDC response - Yes

Provisional proposal 52

Operators should be expressly permitted to sub-contract services. (Page 210)

SMDC response - Agree

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? (Page 210)

SMDC response - Yes

CHAPTER 17 – REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers. (Page 213)

SMDC response - Agree

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? (Page 213)

SMDC response – Possible lower quality of service although minimum standards should minimise that. Possible overcrowding of services/ranks.

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed? (Page 215)

SMDC response - Yes

CHAPTER 18 – TAXI AND PRIVATE HIRE REFORM AND EQUALITY

Question 57

Should there be a separate licence category for wheelchair accessible vehicles?
This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. *(Page 217)*

SMDC response – Yes, we believe that a separate category would benefit the general public as a whole.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? *(Page 217)*

SMDC response - Yes

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? *(Page 217)*

SMDC response – Not at this time

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. *(Page 218)*

SMDC response - Agree

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. *(Page 219)*

SMDC response – Agree. Although it may be less applicable to single owner operators that do not have a wheelchair accessible vehicle.

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. *(Page 219)*

SMDC response - Agree

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? (Page 220)

SMDC response – Yes it may help although it might be problematic to enforce

CHAPTER 19 – REFORMING ENFORCEMENT

Question 64

Should authorised licensing officers have the power to stop licensed vehicles? (Page 222)

SMDC response - Yes

Question 65

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”. (Page 223)

SMDC response – Increasing enforcement powers of LA Officers to instantly remove vehicle plates through licence suspension, issue fixed penalty notices, have powers against vehicles, drivers licensed in other authorities

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? (Page 223)

SMDC response – It may be desirable but I am unsure as to how practicable it would be. Presumably there would be a requirement for a suitable vehicle/company to be engaged when a vehicle would need impounding?

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how? (Page 225)

SMDC response – If a vehicle or driver are found to be in breach of nationally set licence conditions and possibly certain locally set conditions then officers should be able to issue fixed penalty notices.

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. (Page 225)

SMDC response - Agree

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? (Page 226)

SMDC response – We believe that this would be achievable if there was either a statutory list, or one set down by Secretary of State/Welsh Ministers as to when an officer can suspend or revoke a licence.

CHAPTER 20 – REFORM OF HEARINGS AND APPEALS

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. *(Page 230)*

SMDC response - Agree

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. *(Page 231)*

SMDC response - Agree

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court. *(Page 232)*

SMDC response - Agree

Question 73

Should there be an onward right of appeal to the Crown Court? *(Page 233)*

SMDC response – Yes there should be.

LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

OVERVIEW OF PROVISIONAL REFORM PROPOSALS

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. *(Page 160)*

Agree: This preserves operational flexibility and precludes the re-emergence of un-licensed pre-booked only vehicles such as existed prior to pre-booked only Private Hire being regulated.

REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. *(Page 162)*

No response

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. *(Page 164)*

Agree – it is sensible to regulate for the service provided rather than type of vehicle

Question 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? *(Page 164)*

See response to Question 3.

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. *(Page 165)*

Agree: However this should not preclude the continued ability to use PHVs and taxis to provide local bus services (which can be flexibly routed and timed demand responsive services) under the Special Restricted PCV licence granted by the Traffic Commissioner (See Paragraph 11.58 of Consultation -Transport Act 1985 ss 12 and 13a).

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. *(Page 166)*

Agree: However this should not preclude the continued ability of Taxis to charge separate fares under the provisions of S11 of the 1985 Transport Act (see Paragraph 11.57 of the Consultation). Some PTEs use this provision to contract taxi operators to provide demand responsive services to provide transport for areas, links and/or at times where bus services are unsustainable.

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. *(Page 167)*

Agree: This is currently a grey area. One option would be if the Limousine is more than 8 seats it should be covered by PCV licensing regime if up to 8 seats it should be covered by taxi legislation.

Provisional proposal 8

The concept of "in the course of a business of carrying passengers" should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. *(Page 168)*

Agree in principle, but adding 'for profit' to the definition would be clearer in its intent to exclude Community Transport providers and their trading arms

Question 9

How, if at all, should the regulation of taxis and private hire deal with:

- (a) carpooling; and
- (b) members clubs? *(Page 170)*

- a) excluded where not for profit**
- b) include only where club is for profit and transport is the main activity of the club**

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. *(Page 171)*

Agree: Flexibility will allow Ministers to make changes in line with changing circumstances without the need to amend primary legislation.

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. *(Page 172)*

No response

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse? (Page 174)

Agree: This exemption, where services are provided for 7 days or more, was justified on the basis that contract terms effectively replace licensing requirements. This would reduce administration and increase operational flexibility. However, to avoid abuse the exemption should only apply where the customer is a public sector organisation.

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets". (Page 175)

Agree: Public safety is imperative regardless of whether services to the public are being provided on public or private land.

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? (Page 177)

Agree: This follows from Proposal 13. Such provisions may need to cover:-

- **provision of clearly marked taxi ranks at airports and stations with agreed maximum number of taxis parking on the rank;**
- **operation of shuttle services;**
- **limits on permits issued by stations or airports since this can lead to knock-on congestion in surrounding areas.**

Provisional proposal 15

The defining feature of taxis, the concept of "plying for hire", should be placed on a statutory footing and include:

- (a) references to ranking and hailing;
- (b) a non-exhaustive list of factors indicating plying for hire; and
- (c) appropriate accommodation of the legitimate activities of private hire vehicles. (Page 181)

Agree: As discussed this would also facilitate a clear statutory distinction between Taxi and Private Hire.

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. *(Page 181)*

Agree: For simplicity and clarity the method of engaging taxis should remain the principal differentiating factor between plying for hire and pre-booking

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”?
(Page 182)

Disagree: The statutory definition proposed at 15 should address this issue

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained. *(Page 182)*

Agree: Abolishing compellability would render ranking pointless.

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. *(Page 183)*

Agree: This maintains a clear distinction between taxis and private hire.

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.
(Page 184)

Agree: Subject to the necessary insurance cover and removal/covering of signage and plates.

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements.
(Page 185)

Agree: Guidance would help licensing authorities and judges to decide cases and improve consistency across different licensing areas.

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned.
(Page 185)

Hackney Carriage is an outdated and no longer required terminology.

Question 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “prebooked” and did not otherwise lead to customer confusion? (Page 186)

No response

A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements. (Page 188)

Agree: National minimum safety standards will provide clarity and aid understanding. This also accords with the ability of both Taxis and Private Hires to undertake pre-booked work in any licensing area.

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards. (Page 189)

Taxis and private hire vehicles are a key part of the wider transport provision in the city regions. Government wants to see more decisions about how transport is provided devolved rather than specified by Whitehall. Whilst we support the setting of national safety standards, there is a need for a degree of additional flexibility so that different areas can set higher standards if they so wish.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. (Page 189)

Agree: to be effective the standards should be mandatory and enforceable

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers. (Page 190)

Disagree. In line with 25 locally accountable strategic transport authorities should have the option of setting quality standards for PHVs if this contributes to wider strategic goals for transport policy and the quality of non-private transport provision as part of the wider transport mix.

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? (Page 190)

In line with 27 locally accountable strategic transport authorities should have the option of setting local standards for signage if this contributes to the achievement of their wider policies on Taxis / PHVs

Question 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? (Page 191)

Bottom line standards as suggested in the text should be simple to implement. Objections may be received from local licensing bodies, drivers or operators arguing for a higher local safety standard for Private Hire. This may especially occur where operators have already invested to achieve higher local standards (although see response to 27)

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (Page 192)

No: There is insufficient difference in the service offered to justify this and it facilitates drivers driving both. Minimum standards should be the same for both trades but Licensing Authorities should be able to improve on these in response to local issues.

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety. (Page 192)

It may be sensible to allow for flexibility in any primary legislation to allow for standard setting in other areas of taxi and PHV standards to respond to any future changes in policy or circumstances

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. (Page 193)

Agree: There is a clear need for minimum national safety standards and these should be subject to consultation with licensing authorities and the taxi trade.

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? (Page 193)

A technical advisory panel could review proposals from Licensing Authorities, operators and other interested parties, consider improvements in vehicle design and technology, relevant data on accidents, incidences of violence against drivers etc. and advise the Minister on appropriate actions.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. *(Page 193)*

Agree: Taxis and private hire vehicles are a key part of the wider transport provision in the city regions. Government wants to see more decisions about how transport is provided devolved rather than specified by Whitehall. How taxis are provided has knock on implications for rail and bus services which in turn support wider economic, social and environmental goals and policies for the city regions. We would further argue that where agreed locally, the responsibilities for safety and quality standards could better be undertaken by the local strategic transport authority (the PTE or similar body) so that these standards can be set by a body which also oversees other forms of transport provision across major conurbations. The regulatory function could remain with the existing Licensing Authority (or existing Licensing Authorities could also be combined at the city region level.

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? *(Page 194)*

No: see response to 27

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? *(Page 194)*

Yes: There may be local factors that require individual conditions.

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? *(Page 195)*

In line with our response to 34 a combined licensing authority could generate administrative efficiencies, improve enforcement and be aligned to other key strategic city region transport planning and management functions. Where consolidation is not seen as desirable or sensible then powers and duties to cooperate would be helpful in reducing problems relating to boundaries between licencing authorities

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. *(Page 196)*

Agree: see response to 34 and 37

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. *(Page 196)*

Agree: Licensing Authorities should have powers to regulate taxi zones within their areas. Where responsibilities for taxi standards and/or regulation are moved up to a city region body this would be a valuable tool in ensuring an even spread of taxis across the whole of a Metropolitan area.

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? *(Page 197)*

Agree: In line with the wider benefits of devolving transport decision-making any additional flexibility is welcome.

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. *(Page 198)*

This would logically follow on from the key thrust of the paper's proposal – the deregulation and nationalisation of the legal and regulatory framework for PHVs. There are advantages to this proposal in that it overcomes existing boundary issues, and facilitates more efficient operation. However, in line with our response to 34 devolutionary principles and city region strategic transport planning imperatives should also be reflected in terms of individual areas being able to determine quality standards and a locally appropriate 'offer' on taxi and PHV services

Provisional proposal 42

We do not propose to introduce a "return to area" requirement in respect of outof-area drop offs. *(Page 199)*

Agree: This would be wasteful of resources (subject to principles set out in 34)

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares. *(Page 200)*

Disagree: in line with response to 34, the option of strategic transport planning authorities having the ability to set a framework for fares regulation for PHVs should be retained.

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? *(Page 200)*

No response

REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING**Question 45**

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? *(Page 203)*

(a) No; (b) Yes: (b) is more flexible in light of changing circumstances over time.

Provisional proposal 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. *(Page 204)*

Agree: This is the case at present.

Question 47

Should national vehicle safety standards be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? *(Page 205)*

b) retains flexibility.

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. *(Page 206)*

Agree: operators licensing should be retained for both Taxi and Private Hire operators since they are the point of contact at booking.

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? *(Page 208)*

Agree: The radio circuit provider is the point of contact with the customer. The definition of operator should be extended to cover taxi radio circuits.

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. *(Page 209)*

Disagree: If any person accepting a booking for a Private Hire trip is defined as an operator, then the same should apply to Taxis. Hence the definition of Taxi Operator should also be extended to cover any intermediaries.

Question 51

Should “fit and proper” criteria in respect of operators be retained? *(Page 209)*

Agree – In addition this should be extended to also cover Taxi owner drivers.

Provisional proposal 52

Operators should be expressly permitted to sub-contract services. *(Page 210)*

Agree: Further development of scheduling software will allow operators to pool trips thereby increasing efficiency and reducing costs.

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? *(Page 210)*

Yes, any pre-booked journey record should be kept either through the booking centre.

REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers. *(Page 213)*

Disagree: In line with our response to 34 strategic transport authorities should have the option of being able to manage taxi numbers as part of the wider transport strategy for their areas.

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? *(Page 213)*

- **Traffic congestion (with all the implications this has for the local economy, air quality standards and journey times for other road users – including local bus services)**
- **Unpredictable impacts on other forms of public transport (with knock on effects for subsidy and support)**
- **In conditions of over-provision then standards could drop as income falls**
- **Harder to police/regulate taxis**
- **Abuse/overcrowding/spilling of existing ranks – requiring more rank capacity**

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed?

(Page 215)

We do not agree with the premise but agree that if quantity restrictions were to be removed then this seems to be sensible approach. A minimum 3 year period is likely to be necessary.

TAXI AND PRIVATE HIRE REFORM AND EQUALITY

Question 57

Should there be a separate licence category for wheelchair accessible vehicles?

This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. *(Page 217)*

Yes (with appropriate signage for both taxis and Private Hire vehicles where drivers have completed the disability awareness course proposed in response to Question 59 below): However (1) could be challenging to enforce.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? *(Page 217)*

For vehicles meeting the proposed new category above this should be an option open to licensing authorities but for each area to determine depending on local circumstances, aspirations and wider policies on taxis and PHVs

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? *(Page 217)*

Drivers badge fees could also be lowered for drivers who have completed an accredited disability awareness training course.

More widely (and in line with our response to 34) PTEs have a track record of promoting more accessible transport (for example through investing in more accessible bus services). The way in which the overall provision of non-private transport (buses, trains, trams, taxis and PHVs) is best determined locally and in a holistic way.

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. *(Page 218)*

Agree – see response to 59

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. *(Page 219)*

Agree: National standards will help to promote such training

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. *(Page 219)*

Agree: This approach will also help with other complaints – fares, driving standards, vehicle issues etc.

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? *(Page 220)*

Agree:

REFORMING ENFORCEMENT

Question 64

Should authorised licensing officers have the power to stop licensed vehicles? *(Page 222)*

Agree: Licensing officers should have similar powers to the Vehicle and Operator Services Agency

Question 65

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”. *(Page 223)*

Clearly marked taxi ranks at locations where taxi demand is high would limit touting outside clubs. Issuing a fixed penalty notice could be considered.

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? *(Page 223)*

No response

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how? *(Page 225)*

Agree: See Q66 and Q67; Fixed penalty powers should be extended to Licensing Officers.

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. (Page 225)

Agree: This will reduce potential issues with cross-border operation.

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? (Page 226)

Disagree: The local Licensing Authority (LA) is better placed to consider this. The formal notice from the LA where the offence occurred to the local LA proposed in their consultation could facilitate this.

REFORM OF HEARINGS AND APPEALS

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. (Page 230)

Agree

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. (Page 231)

Agree

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court. (Page 232)

Disagree; The Transport Tribunal would be a more knowledgeable body.

Question 73

Should there be an onward right of appeal to the Crown Court? (Page 233)

Agree

CONCLUSION

1.41 It is not possible in a summary of this length to introduce all of our provisional proposals. Consultees are therefore encouraged to refer to the full Consultation Paper available on our website. Please send responses by **10 August 2012**.

How to respond

Send your responses either -

By email to: tph@lawcommission.gsi.gov.uk or

By post to: Public Law Team (Taxi and Private Hire), Law Commission, Steel House, 11 Tothill Street, London SW1H 9LJ
Tel: 020 3334 0266 / Fax: 020 3334 0201

If you send your comments by post, it would be helpful if, where possible, you also sent them to us electronically (in any commonly used format).

From: All American Wedding Cars [REDACTED]
Sent: 10 September 2012 11:53
To: TPH
Subject: WEDDING CAR BUSINESS AND THE PROPOSED LEGISLATION

Dear Sirs

CP203 TAXI AND PRIVATE HIRE SERVICES

I have read through the proposal on the deregulation of taxi and private hire services and this raises serious concerns. I am referring specifically to Provisional Proposal 11 which relates to the inclusion within this legislation of wedding and funeral hire services.

My personal interest is in respect of wedding car hire and I regret to have to say, that contradictory to the intention of this legislation, the "Deregulation" as planned will impose conditions on this sector so onerous that most such businesses will be forced to close.

The points of concern are as follows:

1. Wedding car hire businesses are not currently licensed by local authorities and are therefore exempt from the existing local rules relating to taxis and private hire firms. This reflects the view held by such authorities, based on experience, that such businesses do not provide comparable services and do not need to be licensed.
2. The majority of wedding hire businesses provide unusual and older vehicles which reflect the demand for the wedding event to be special in every way. Should the event require just transportation then they would use taxi or private hire services, but the choice of vehicle and the way in which the vehicle is presented is key to the customer, not the movement of people from a to b.
3. Vehicles used by wedding hire businesses are usually expensive to buy, run and maintain and therefore not appropriate to a high mileage taxi or private hire business and not used by such business. When did you last see a 50 year old car on a taxi rank? The wedding hire business is therefore much more the provision of an interesting vehicle as part of the event rather than transportation.
4. The proposal to bring wedding hire vehicles under the taxi and private hire umbrella would mean that all such vehicles would have to conform in respect of Provisional Proposals 31,32 and 34 which seek to ensure that all taxi and private hire vehicles conform to nationally set safety standards. These standards will almost certainly be set to ensure that only the latest and most modern vehicles comply and whereas I would have no argument on this in respect of a taxi, almost all wedding hire vehicles, being built at a time when such standards did not exist, would not comply.
5. Unless specific exemptions are put in place for wedding car hire vehicles, which, for example, include pre second world war cars, post war classics including Rolls Royce's, limousines and others, and in my case 1950's and 1960's American cars, they would have no hope of compliance. For example, the requirement for the compulsory fitment of front safety belts did not come into law until 1967 and their wearing only became compulsory in 1983. Rear seat belt fitment only became compulsory in 1987 and their wearing in 1991. Cars built before 1967 do not therefore need to have belts fitted nor is it a legal requirement for them to be worn. Many cars, particularly those manufactured pre-war, have no mountings to which belts can even be attached.
6. Even if my cars could be made to comply with seat belt regulations, they are left hand drive and my local authority (Tunbridge Wells in Kent) specifically excludes left hand drive, from use as taxis or private hire. It also excludes any vehicle more than six year's old being first registered for private hire.
7. The grounds for this proposed legislation seems to centre on health and safety. Appreciating that most older cars cannot possibly conform to modern standards from this viewpoint they should all be taken off the road immediately. However, I should bring your attention to the insurance industry where the issue of policies and the setting of premiums are based on actuarial assessment of risk. The increased premium for using one of our classic American cars for wedding hire is only some £80 per year, based on a limited 3,000 mile policy and the total premium is only £230. If actual evidence dictated that this was a dangerous activity the insurance

costs would be vastly higher.

8. In fact the government considers that the accident rate of vehicles manufactured before 1960 is so low that they are abandoning the requirement for an annual MOT test.

9. Our vehicles are only insured to cover 3,000 miles in a year. Each car will cover no more than 20-30 weddings in that time the majority of which are local. They hardly compare to taxi or private hire vehicles which can cover this mileage in two weeks.

10. Provisional Proposal 48 states that all private hire companies should have operator licenses. Wedding car hire businesses do not currently need these. Imposition would provide an extra cost, complication and regulation on small businesses where there are currently no such requirements or need.

11. Most wedding hire businesses are small and the income generated on such a low vehicle usage means that no one is making a lot of money, certainly vastly less than a taxi or private hire business. The imposition of licensing and additional regulation will mean that wedding hire businesses will suffer the same costs despite covering only 5% of the vehicle mileage and the costs involved are likely to make running the business uneconomic, even if the rules are such that we can continue using our vehicles.

Can I suggest that before this legislation is taken further, the Law Commission carries out some research into the wedding car business. The analysis of such research I am sure will lead to the understanding that wedding hire is nothing like a private hire or taxi firm and therefore the same rules must not apply. Sadly, if this comes into law as proposed some 4,000 businesses are likely to have to close and their employees will lose their jobs.

From a government pledged to cut regulation and help small businesses this is an extraordinary situation.

Yours Faithfully

James McDougall
All American Wedding Cars

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From: Colin Pamplin [REDACTED]
Sent: 10 September 2012 12:15
To: TPH
Subject: Wedding car industry

Importance: High

Dear Sir/Madam

Please accept this email as protest against your proposals regarding legislation of the WEDDING CAR INDUSTRY. Apart from the fact that it will force closure of the thousands of small companies but it will also destroy another Great British Tradition where the bride and groom use vintage and classic vehicles on their one very special day.

Cmon have a heart this just is not fair !

Thanks
Colin Pamplin

Proprietor and owner of

Lovebugwedding cars at
[REDACTED]

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COLCHESTER BOROUGH COUNCIL RESPONSE TO THE LAW COMMISSION CONSULTATION ON TAXI AND PRIVATE HIRE REFORM

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. *(Page 160)*

We agree.

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. *(Page 162)*

We agree

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. *(Page 164)*

We agree. It is considered essential that all types of vehicle used for hire or reward with the services of a driver should be included in the legislation thus ensuring that they cannot simply 'turn up' with no licensing restrictions. However, this authority does not believe that this should mean that there is an obligation to license such vehicles if local conditions dictate that there is a danger to the public or similar type of concern in doing so e.g. the licensing of Rickshaws and Pedicabs on busy roads

Question 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? *(Page 164)*

Non motorised vehicles also carry passengers for hire and reward and this authority considers that it is essential that any such vehicles and drivers that are permitted are vetted in the same way as any other licensed driver. This authority would advocate legislation to cover such matters as vehicle safety, driver suitability, vehicle and third party insurance and public liability insurance. As above stated Pedicabs and Horse drawn carriages are too slow in busy city or town environments and often driven by somebody with little or no experience we would strongly request therefore the ability to set local policy on the acceptance or otherwise of such vehicles and where (if licensed) they should be permitted to travel. Limousines and Novelty vehicles already fall within our Licensing policy and this authority fully agrees that the law in relation to such vehicles should be tightened and clarified.

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. *(Page 165)*

We agree, this is the current position and works well.

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. *(Page 166)*

We agree.

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. *(Page 167)*

We agree. As above stated clarification on Limousines in particular would be welcome, particularly as many such vehicles are converted or extended and contain 'J seats' which can be dangerous in an accident. Limousines are often used to carry more than 8 passengers; however, when licensing as private hire vehicles they will currently always be restricted to 8. There are at present a number of unlicensed vehicles on the roads and of those that are licensed there are two methods of doing so, which creates confusion and difficulty with regard to enforcement.

Provisional proposal 8

The concept of "in the course of a business of carrying passengers" should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. *(Page 168)*

We agree.

Question 9

How, if at all, should the regulation of taxis and private hire deal with:

(a) Carpooling; and

(b) Members clubs? *(Page 170)*

a) We agree that carpooling should be exempt unless the scheme is profit motivated. This authority agrees that an appropriate measure of profitability would be HMR&C mileage rates, which allows a measure of payment towards wear and tear as well as fuel costs.

b) this is more of a grey area as even if e.g. the vehicles carry only lady passengers they may still be operating as Taxi's or private hire vehicles and the fact that they are for members would therefore not be mitigate the use of the vehicle for profit. This authority agrees however, that certain members clubs could be exempt and would suggest that the HMR&C mileage rates would again be a good measure. In this regard however, an excessive use of any such vehicle even if not for profit may put unusual wear and tear on the vehicle and as such this authority harbours some concern over the suitability and mechanical standards of such vehicles where, if falling outside of a licensing regime, they will be subject to only an annual MOT

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. *(Page 171)*

We agree.

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. *(Page 172)*

We disagree with this view. The current arrangement works well and this authority is not aware of any concerns, including with regard to the fitness of drivers despite the fact that they are not CRB checked. It may be worthwhile defining the use of a wedding car i.e. all associated journeys connected with the wedding on the day of booking or just home to church, church to reception etc. There are a variety of such cars both modern and vintage and whilst it is important to ensure vehicle safety the wear and tear on these vehicles is not excessive due to infrequency of use (compared to taxi and private hire) and relatively low speed driving. Therefore, safety is adequately covered with a standard MOT test.

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse? *(Page 174)*

Yes. National standards should include the presentation of relevant contracts between the PH Operator and the customer. The use of a "discreet plate", perhaps the size of an excise duty disc, in the front and rear windows of the vehicle would assist in identification of such vehicles.

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to “streets”. *(Page 175)*

We agree that regulation should not be limited to just streets, the need for vehicle and driver suitability and safety remains necessary no matter where the vehicle is used.

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? *(Page 177)*

Yes, in order to maintain the competition element and to ensure a ‘fair playing field’ between Taxi and private hire vehicles. Perhaps shuttle buses to an off site pick up point where pre booked PH vehicles could be met would assist with Airport security and parking issues.. Provision would also have to be made for a HC rank, again to maintain competition and fairness to the Trade.

Provisional proposal 15

The defining feature of taxis, the concept of “plying for hire”, should be placed on a statutory footing and include:

- (a) references to ranking and hailing;
- (b) a non-exhaustive list of factors indicating plying for hire; and
- (c) appropriate accommodation of the legitimate activities of private hire vehicles. *(Page 181)*

We agree. There are currently a number of grey areas in respect to plying for hire e.g. a private hire vehicle with driver parked down a side street, is he plying or merely waiting for a booking to come through? Therefore the non exhaustive list of factors would be especially useful. The distinction not only between the two modes of transport but also in the differences in the way that they must operate could be more clearly defined.

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. *(Page 181)*

Agreed, however, it remains important that operators should log bookings at time of booking and prior to the passenger being conveyed to ensure that there are no loopholes enabling a private hire vehicle effectively to ply for hire.

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”?
(Page 182)

This authority does not believe that such a change is necessary. The public are generally aware of how taxis function in that they can be hailed or found at a taxi rank. The Scottish definition appears more confusing and raises more questions than answers e.g. what is a public place? Public education of how Private Hire works and the consequences of their misuse would be more beneficial.

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained. (Page 182)

We agree. This authority views compellability as an essential tool in ensuring a safe and efficient public service.

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. (Page 183)

We agree.

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.
(Page 184)

We do see the reason for this amendment as whilst it would enable e.g. a wife or husband to use the vehicle for shopping without need to be a licensed driver the practicalities of enforcement are made more difficult and the question is raised as to how a driver of the vehicle would prove that they were not ‘working’. We can therefore see this as creating a grey area in relation to enforcement and raising more concerns than it solves.

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements.
(Page 185)

We agree. This authority sees guidance as being essential in ensuring uniformity on a national basis.

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned. *(Page 185)*

We agree. The term Hackney Carriage is outdated and not really understood by the general public

Question 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion? *(Page 186)*

No. It would add to existing confusion between the two modes of transport and at present it helps to keep a distinction between the two services. It could be argued that the majority of the public refer to private hire vehicles as “minicabs” and this authority believe that it would be beneficial to adopt this as a generic term for private hire.

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements. *(Page 188)*

We agree

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards. *(Page 189)*

We agree.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. *(Page 189)*

We agree.

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers. *(Page 190)*

We disagree. Private Hire Drivers should be professional and have sufficient knowledge of the area that they will predominantly work. They should not be reliant on a Controller (who may well have less knowledge than themselves) or a satellite navigation device. A knowledge test can comprise of many subjects, the Council's conditions, the Highway Code, Places of interest for example. It does not have to predominantly be a test of road names and their whereabouts in the Borough. Equally the public should be confident that the driver will take them effectively and efficiently to their destination and by use of the quickest route thus ensuring that the cost is maintained at the minimum level for the journey.

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? *(Page 190)*

Yes, local standards should be set regarding signage. It is worth considering some kind of mandatory standard wording such as "Pre booked only" or "Not pre booked-Not insured". This may assist in helping to educate the public in respect of the difference between private hire and hackney carriages.

Question 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? *(Page 191)*

Given that the standards will apply to vehicles, this authority does not see how there can be obstacles to uniformity of standards across the two licensed vehicle types. The same safety standards will apply to any vehicle and if these are a minimum requirement then there can be no 'mismatch'. Further, we see the setting of uniform minimum standards as an essential public safety tool.

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? *(Page 192)*

No. Given that public safety is the main goal, conditions should be consistent.

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety. *(Page 192)*

Safety standards are the most important; however, other factors need to be taken into account. Whilst theoretically the Secretary of State conditions could extend only to matters of safety, if it is determined that this is to be so, this authority would request consideration be made to the ability for local Councils to set local conditions on other matters e.g. vehicle design *(which can have an impact on passenger comfort), signage etc.

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. *(Page 193)*

We agree.

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? *(Page 193)*

As this is the first comprehensive attempt at reviewing the current legislation for very many years, any consultation undertaken should be wide sweeping and inclusive of all relevant parties. A technical advisory panel could prove invaluable in defining standards; however, we would advocate that this should be comprised of a wide cross section of stakeholders to include trade, trade bodies, licensing authorities, other relevant authorities etc.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. *(Page 193)*

We agree.

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? *(Page 194)*

Whilst there should be clearly defined national standards, this authority believes that local knowledge is an important tool in licensing matters and we would advocate some degree of autonomy.

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? *(Page 194)*

Yes

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? *(Page 195)*

This authority believes that cooperation is best left to local arrangements. Informal co operation and resource management county wide is already in place. We already participate in a quarterly policy and technical forum with authorities across the County and maintain informal contact outside of this arrangement. We believe therefore that such legislation is not required.

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. *(Page 196)*

The option to do so would be considered as a positive step in maintaining uniformity of standards. However, given the differences of operation of various authorities and the need to take account of specific local conditions, this authority believes that this should not be mandatory.

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. *(Page 196)*

Whilst we do not anticipate an immediate need to introduce zones in this Borough, we accept that this may not always be the position and acknowledge that there are areas in other Boroughs where zoning is beneficial. This authority agrees therefore with this proposal.

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? *(Page 197)*

No. It would be very difficult to enforce and in the current economic situation drivers have to work longer hours, running into the evening, in order to just make a living.

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. *(Page 198)*

This authority accepts that cross border hiring has become an increasingly common occurrence and in theory do not object to removal of restrictions and freedom in relation to locality of bookings. However, we do believe that the vehicle operator and driver should still be licensed by the same authority to ensure that standards are uniform in relation to how the vehicle operates. We see the enforcement aspect of separate licensing regimes as becoming very difficult as a situation could arise where action needs to be taken against an operator and a driver for a particular breach of condition/offence where these may be licensed by different authorities.

Provisional proposal 42

We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs. *(Page 199)*

It is difficult to see an operator from one area giving preference of work to a vehicle from another and we find it difficult to understand any need for a non return policy. Whilst, if cross border hiring is to be permitted, there are no practical reasons as to why a vehicle should have to return we see this as a temptation to ‘ply for hire’ and a potential unnecessary burden on enforcement. On balance therefore, we would advocate that a ‘return to area’ requirement should be installed into any new legislation.

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares. *(Page 200)*

We agree. A maximum tariff for a Taxi is essential to avoid irregular pricing. It would be totally impractical to allow each taxi operator to set their own fares as this would give rise to a scenario where a person using a rank vehicle with regularity will be subject to a lottery in relation to the fare that they pay. The same journey could differ in price dependant on which vehicle they use.

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? *(Page 200)*

No. The fares are already calculated to take account of various costs and overheads in addition to the profit element.

Question 45

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? *(Page 203)*

It should be set out in primary legislation so as to avoid misinterpretation. The requirement for a licence is in place primarily for the protection of the public, this extends to ensuring that they are safe when being conveyed by a licensed driver. In order to do this certain checks (including the fit and proper test) are vital. Whilst these can be determined at local level, this creates inconsistency of approach and is often left open to interpretation.

Provisional proposal 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. *(Page 204)*

This is the position under the current legislation and we see no reason for any change. Notwithstanding this, the majority of vehicle owners are also licensed drivers and in this regard they will undertake a fit and proper assessment in an case.

Question 47

Should national vehicle safety standards be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? *(Page 205)*

They should be set out in primary legislation so as to avoid misinterpretation.

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. *(Page 207)*

We agree.

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? *(Page 208)*

No this is not considered necessary.

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. *(Page 209)*

We agree.

Question 51

Should “fit and proper” criteria in respect of operators be retained? *(Page 210)*

Yes we see this as essential and would advocate extending a fit and proper test to control staff as such persons are in contact with specific information relating to passengers.

There have been catalogued cases of controllers (not currently licensed) utilising passenger information to detect when people are away on holiday for the purpose of burglarising a house. Such persons also have knowledge for example of lone females and vulnerable persons and vetting of such employees would reduce the risk of crime against these individuals.

Provisional proposal 52

Operators should be expressly permitted to sub-contract services. *(Page 210)*

We agree provided there is provision for accurate records.

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? *(Page 210)*

Yes. This does not have to be too onerous. Details could be kept in a diary, for example.

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers. *(Page 213)*

This authority believes that Taxi numbers should remain limited. A lifting of the restriction is likely to bring many more taxis onto the circuit. We believe that this carries safety implications given that there is limited rank space and this could cause queuing and encourage illegal parking. In addition we see the increase in competition as being likely to encourage drivers to cut corners in safety. We further believe that this is borne out by the evidence of those authorities that delimited a few years ago only to subsequently re-limit, an indication that delimitation does not work in all cases.

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? *(Page 213)*

By far the biggest problem would be the lack of rank space. The current move to make some town centres pedestrian only is adding to this problem, moving ranks to lesser used areas and invariably cutting rank space even further. Ranks on private land, such as railway stations, are usually well oversubscribed already and cannot therefore be expanded. Some of the taxi trade are likely to be rebellious due to losing what they see has "their money" in the loss of premium. It is anticipated that many established drivers, who were able to from a financial viewpoint, would leave the trade. This would quite possibly result in the demise of self regulation and would increase enforcement of the ranks and drivers. Too many drivers and too little work invariably leads to rule bending in an effort to earn a living.

Question 56

Should transitional measures be put in place such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed (page 215)

Whilst this authority for reasons given elsewhere in this response would advocate the retention of quantity restrictions, we would certainly advocate a staggered entry to avoid a 'free for all' should de-restriction of numbers be introduced.

Question 57

Should there be a separate licence category for wheelchair accessible vehicles? This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. *(Page 217)*

We do not believe it necessary for a separate category. The vehicle conditions currently employed enable adequate provision in this regard.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? *(Page 217)*

No. Licence fees must be set on a cost recovery basis the cost of licensing accessible vehicles is the same as that for any other vehicle, therefore we fail to see how this could be lawful unless there was a change in the law to allow fees to be set otherwise than on cost recovery alone.

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? *(Page 217)*

New vehicle licenses issued following an unmet demand survey or following delimitation could be for wheelchair accessible vehicles only. From experience, this has had the effect of establishing a mixed fleet with a reasonably high percentage of wheelchair accessible vehicles sufficient for any need. Drivers of these vehicles could be required to attend a Passenger Assistance Training certificate or a BTEC certificate. These courses not only include training in securing wheelchairs and the handling of same; they also include training in dealing with people with less obvious disabilities such as autism etc.

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. *(Page 218)*

We agree.

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. *(Page 219)*

We agree.

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. *(Page 219)*

We agree

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? *(Page 220)*

It may help to introduce an obligation to stop, although a driver may argue that he “forgot” to turn his taxi light off when, say, he was on his way to a pre booking. These circumstances are notoriously hard to prove. A very high penalty for failing to stop may assist but the burden of proof still remains very difficult.

Question 64

Should authorised licensing officers have the power to stop licensed vehicles? *(Page 222)*

This would be a very useful power and would allow more directed enforcement.

Question 65

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”. *(Page 223)*

The ability to stop a vehicle after a touting incident had been observed and the vehicle had begun moving and the immediate revocation of drivers licence in proven cases.

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? *(Page 223)*

It would be desirable although probably impractical for storage reasons. The ability to remove plates and suspend licences already exists and a continuation of the ability to do this would provide a reasonable alternative.

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how? *(Page 225)*

Yes. FPN's are a very effective tool and can be used for a variety of offences and condition breaches as well as for matters such as smoking in a licensed vehicle. The power to stop a vehicle would be invaluable in this respect.

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. *(Page 225)*

Yes. If such vehicles are to operate in our Borough then the power should exist to enforce against them when necessary to do so. We foresee some difficulty should conditions differ too much between authorities, however, national standards will assist in this.

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? *(Page 226)*

Yes, however it will be essential that a detailed licensing policy is in place and a formal process adopted and followed. Any decision should be made in cooperation with the home authority.

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. *(Page 230)*

We agree.

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. *(Page 231)*

We agree.

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court. *(Page 232)*

We agree.

Question 73

Should there be an onward right of appeal to the Crown Court? (*Page 233*)

Yes. Uncertainty in interpretation of the law is often only clarified by stated cases and clearly such clarification can only come from the higher Courts.

Sheffield City Councils – response to law commission consultation paper on taxi and private hire law review.

Provisional Proposals

1.1 **CHAPTER 13 - OVERVIEW OF PROVISIONAL REFORM PROPOSALS**

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares.

- 1.2 Continuing to distinguish between Hackney Carriage and Private Hire would generally be welcomed by the Local Authority and also the trade in Sheffield. This would be particularly true of the Hackney Carriage trade. In a City like Sheffield where there is a clear distinction in the types / standards of vehicles that are allowed to be used currently as licensed vehicles this proposal would enable us to keep the status quo.
- 1.3 It is our view that the new legislation should be made to fit with the “Localism Principle” of delegating powers and decisions down to locally elected members and the communities. It should be up to the people of Sheffield to decide what types of vehicles, standards of drivers etc. they want to see in their city.
- 1.4 There would be little or no impact on Sheffield City Council with this proposal as it is the way that we administer taxi / private hire licensing currently. We would welcome this proposal being accepted and continued in the new legislation.

2. **CHAPTER 14 – REFORM OF DEFINITIONS AND SCOPE**

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform.

- 2.1 It is our opinion that London should be included in the reforms if the reform is to create a national standard / piece of legislation this would surely be the common sense approach. This would help create consistency across the Country. However, there does need to be local choice to ensure that local authorities can shape your own city offer and the night time economy to suit and in turn achieve such awards as the Purple Flag. This would enable local authorities to create a safe and friendly environment within their city and a late night public transport service that can be trusted.
- 2.2 There would be no impact on Sheffield City Council with this proposal.

3 Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver.

- 3.1 This would be a major change and it would bring all types of hire vehicles into the licensing regime, for example wedding and funeral cars and other novelty vehicles. It would cover all vehicles that carry 8 passengers or less for reward.
- 3.2 This proposal would have a significant impact on Sheffield City Council and would require us to consider major changes to our policies. We are not against this proposal but would like to see it involve some form of local choice. This could be achieved by including a different section in the Act for Wedding Cars / Funeral Cars allowing Local Authorities to adopt a slightly different approach / standards to these types of vehicle. This would give flexibility as well as local control.
- 3.3 Another impact that would need to be considered is the number of applications this could generate, the testing of vehicles and the administration work that would be involved. The new legislation may need a transitional period similar to what was given to businesses under the Licensing and Gambling Act's.
- 3.4 Local and national publicity / advice would need to be available for new customers and existing providers of such services that would find themselves subject to new regulation.
- 3.5 Advantages are that it would create a single piece of legislation governing all vehicles provided for hire with the services of a driver. It would also remove many of the grey areas in the current licensing regime.
- 3.6 There would be no overlap of providing a service with a smaller vehicle to replace a mini bus as is the current situation and allows people to circumvent the law. All drivers of such vehicles would be subject to enhanced checks and have to undertake a full application procedure.
- 3.7 Disadvantages are minor and are generally around how the legislation would be phased in and the timescales given to existing operators to move across to the new system.

4. Question 4.

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence?

- 4.1 There are both advantages and disadvantages to this suggestion. What we need to consider is what do the public want and what is the reason for control.
- 4.2 The people providing this service should still be subject to checks on whether they are fit and proper. They should also be required to have a medical to ensure they are fit to undertake this type of work and the vehicle / bike should be subject to inspection / tests for safety reasons.

This is essential for the service users, a licence given by the Local Authorities gives some reassurance to users.

- 4.3 Many people would welcome the idea of being transported around seaside resorts, city centres, places of interest by these smaller forms of transport. In the summer it would be extremely appealing to many visitors / tourists. However, we need to consider areas like Sheffield that are extremely hilly and have many steep roads. Perhaps the power for local authorities to restrict the areas in which these services can be provided / operate would be essential in the legislation.
- 4.4 We feel it is clear that pedicabs, and trikes etc. require some form of licence, registration and enforcement system. It seems sensible to include this in the review and once again we would suggest a separate section within the Act for this form of transport. Consideration will also need to be given to imposition of conditions on a licence in respect of displaying a licence plate on such vehicles similar to funeral and wedding cars.
- 4.5 There would be very little impact on the Council dependant upon the level of new applications, administration and enforcement. As detailed above regarding wedding and funeral cars there is a need for good publicity of the new requirements and a transitional period for us to engage with existing operators etc.
- 4.6 Another advantage to this proposal is that it would make it a lot clearer for the public and licensees what type of licenses they need for what type of service.
- 4.7 Disadvantages are minor and are generally around how the legislation would be phased in and the timescales given to existing operators to move across to the new system.

5. **Provisional proposal 5**

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers.

- 5.1 This is an extremely grey area currently with the bus companies being allowed through a legal loophole to replace a minibus with over 8 seats with a vehicle with under 8 seats. These vehicles do not have the same checks as a private hire vehicles and the driver does not legally have to have any checks on their suitability as a driver to ensure their fit and properness. This seriously undermines the role of the local authority which is to ensure / promote "Public Safety" and we would strongly support any changes to the law / regulations to prevent this practice from happening. The proposal would be recommended by most local authorities and the trade as it would clear up the anomalies / conflict with the two pieces of legislation.
- 5.2 There would be very little impact on the council as this would iron out one of the grey areas of licensing which causes confusion to the public and local authority officers. The main impact would be that enforcement could take place on illegal vehicles as they would no longer be able to hide behind or use the PSV licenses.

6. **Provisional proposal 6**

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. (Page 166)

- 6.1 This is an extremely grey area we have stated in paragraph 5.1 / 5.2 above. When undertaking this practice these businesses charge separate fares and are able to run like a hackney carriage. This in real terms does not happen. Passengers get in the vehicle as a group of four people and pay a single fare of £8. (£2 per person). This is obviously incorrect as the driver would not charge a single passenger £2 for that same journey.
- 6.2 This is largely unenforceable and as a licensing authority we feel that this clause MUST NOT appear in any new legislation that is drafted. This is a rogue's ticket to provide a service without being properly licensed.
- 6.3 This would provide a massive positive impact for the council and passengers as this would remove an issue that causes confusion to the public and licensing officers.
- 6.4 Another positive impact on the licensing service would be that they could enforce this new legislation / regulation on such illegal vehicles and they could no longer hide behind and / or use the PSV licenses to use small vehicles or that the passengers were to pay separate fares.
- 6.5 This would be a major advantage as mentioned earlier it takes away any confusion about who needs a licence and where they need that licence from.

7. **Provisional proposal 7**

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency.

- 7.1 In legal terms the issuing of guidance means nothing and it can not be relied upon in Court etc. Guidance is what it says, it is only guidance and not legislation that can be enforced. We have learnt in the past that guidance from a Government Department or Member of Parliament can be wrong and challenged in Court if a Council uses the guidance to make policies using only such guidance.
- 7.2 Stretch limousines as such remain in the jurisdiction of the traffic commissioners if the vehicles are manufactured to carry more than 8 passengers. What we need to prevent is vehicles under 8 passenger seats being used under the traffic commissioners regulation if proposal 5 above is to be implemented.

7.3 There is no impact on the Council as this would be guidance to the TC and not to the Council. There is the option of bringing the licensing of stretch limousines under the same piece of legislation as with wedding cars etc. and incorporate in a separate section of the Act so it becomes law. We feel that this would be much more beneficial and improve public safety in this area.

8. **Provisional proposal 8**

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service.

8.1 This would mean the exclusion from the need for licenses from the volunteer sector, and such schemes that now fall under private hire such as hire firms that pick you up, pet ambulances, home helps and childminders and many others that are out there.

8.2 There is no real negative impact on the Council with this proposal as we have not been over active on the enforcement of this particular area. It is not seen as a priority and has not been seen to be in the public interest to pursue such matters.

9. **Question 9**

How, if at all, should the regulation of taxis and private hire deal with:

(a) carpooling; and

(b) members clubs?

9.1 Carpooling is an area that may well in some instances fall within the current area of private hire legislation especially if the driver of the car receives some remuneration for being the driver that day. So it would be a benefit to all if this area was taken out of the legislation and become clearly defined for all what is required from a Carpool to exempt them from requiring a licence.

9.2 Members clubs – this really depends on what the members clubs are for, and why they are set up for in the first instance.

9.3 The example of “Women Only” (e.g Pink Ladies) vehicles and drivers should remain a licensing matter and they require a private hire operators licence, and the vehicles and drivers should be licensed by the local authority as with any other private hire vehicle.

9.4 Members clubs that aid communities for instance where the members help other members, and assist the vulnerable and disabled may well benefit from being exempted. However, once again it would need to be clearly defined within the legislation.

10 **Provisional proposal 10**

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes.

- 10.1 This would mean the Secretary of State setting a national standard for drivers and vehicles thus affecting the ability of a local council to set its own standards. We would be totally against this proposal, as it would be moving away from localism and the principle of local people / elected members deciding what they want locally. We would support this idea if the Minister were only to set minimum standards with powers given within the legislation to Local Authorities to enhance those standards. The legislation would need to give strong legal support to those authorities who choose to set higher standards than the national minimum. Without that legal provision it would leave them open to challenge and more importantly potentially place the public at risk.
- 10.2 We believe this would have a significant impact on Sheffield City Council and its ability to have local standards, conditions and specifications. We have worked really hard over recent years in partnership with trade to improve standards and to enhance the trades reputation. Together we have produced what we think is a high quality public transport service for residents and visitors to our city.
- 10.3 Although, a lot will depend on the standards that come into force nationally if the standards are set lower than what we currently have in Sheffield we would foresee major problems. Particularly, if there were no legal powers for us as a local authority to impose higher standards. This would significantly increase the risk to the public using this service.

11 **Provisional proposal 11**

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation.

- 11.1 Although this has previously been answered earlier in our response. We would like to re-iterate that this can only be a positive and give our support to including wedding cars, funeral cars, pedicabs, and trikes etc. within the legislation. These forms of transport require some form of licence, registration and enforcement system. It seems sensible to include them in this review and once again we would suggest a separate section / provisions within the Act for this form of transport.

12 **Question 12**

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse?

- 12.1 We believe there is no merit for introducing exemptions to the new legislation in this format.

- 12.2 We believe an exemption of this kind would be open to abuse and at this particular point in time it serves no purpose. If an individual is offering a service of this kind then they should be required to obtain a licence. It is our belief that there are no modifications that would not be open to challenge and all that exemptions would do is waste time and money on legal challenge and contested issues.
- 12.3 The reform of this legislation is to iron out the problems of challenges in court and the badly written legislation. Any introduction of exemptions such as this will just lead to more time spent in court on appeals, judicial reviews and prosecutions. The legislation should be clear for local authorities, licensees and the public. Keep it simple, if you offer a service of a car and driver and you should have to be licensed.

13 **Provisional proposal 13**

Regulation of the way taxis and private hire vehicles can engage with the public should not be limited to “streets”.

- 13.1 In simple terms this would mean that anybody or any company offering a service from private land would all be caught by the same legislation. This would mean that places such as Airports, Shopping Centres, and Bus Stations would now be caught by the legislation thus the plying for hire laws that the council struggle to prove in these areas would become clearer.
- 13.2 This would allow the Council to prosecute illegal plying for hire on “private land” that currently is a legal minefield.

14 **Question 14**

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank?

- 14.1 This is a question that really doesn't affect Sheffield as the airport no longer exists. However, it would affect us if the Railway Companies or Shopping Centres entered into agreements with Private Hire companies to provide services from their premises or land.
- 14.2 It would be extremely difficult for the Council to enforce the law against someone who provided a shuttle service for people not wishing to use the “agreed services”. It also asks the question of who would be responsible for the enforcement of such a service and who would be liable for the costs.
- 14.3 What parameters would be set to the shuttle service these would have to be strict and adhered to, 1 per hour – is that good enough, 1 every 10 minutes etc. What is the “green effect” to this proposal of having one form of transport to take people to another form of transport? How much would it be used?
- 14.4 Currently this is not a major problem. It would be easier for a Council to enforce a public service area to have a hackney rank in a safe and prominent place within the complex, thus allowing hackney carriages to ply their trade free of charge.

15. **Provisional proposal 15**

The defining feature of taxis, the concept of “plying for hire”, should be placed on a statutory footing and include:

(a) references to ranking and hailing;

(b) a non-exhaustive list of factors indicating plying for hire; and

(c) appropriate accommodation of the legitimate activities of private hire vehicles

- 15.1 To have a statutory footing for the offence of “plying for hire” would be beneficial. However, there are currently easy factors that point to illegal plying for hire, if you are on a street and you make yourself and a vehicle available for immediate hire then that is plying for hire.
- 15.2 If you are to maintain a two tier system then the penalties for this need to be much higher and need to be vigorously enforced across the country. This becomes much more important if the option of limitation is removed as this means that the driver has made a choice of which area they wish to work and has not been forced into private hire as there are no Hackney Carriage Vehicle licences available.
- 15.3 Having legitimate activities for private hire must not lead to a “cheaters charter” and allow companies and single private hire drivers, to bend the rules. The law must be watertight, rigorous and tough and not leave loopholes for exploitation.
- 15.4 We would support the use of new technology to be allowed when bookings are made with a private hire operator.
- 15.5 The booking of a single vehicle should not be allowed within the confines of that vehicle. This would mean that the booking could not be made on site or in the vehicle with the driver. The booking would have to be by which ever means is made available at the trading address/office of the operator. If that link then sends a message to a driver who is in the vicinity of the booking then that is fine and should be allowed.
- 15.6 This is an opportunity to make the proposed legislation clearer, and bring it up to date in terms of language used and technology available to Society today. Internet bookings, phone apps etc should be allowed in the acceptance of a booking we need to move with the times. Information retention should form part of the conditions of a licence granted to any private hire operator. Therefore, as part of this review we should be looking at the introduction of statutory conditions for operators to assist in the promotion of consistency across the country. However, there should always be the power for local authorities to set their own local conditions as well.
- 15.7 If this is done correctly then there should be only a positive impact on the local authority. Clearer legislation would aid proper regulation and control and make it easier to bring prosecutions for a plying for hire offence.
- 15.8 In a two tier systems this part of the legislation needs to be robust and is a major concern for the hackney carriage trade.

16. Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services.

- 16.1 This has been covered in adequately in the above paragraphs. We need to move the legislation forward in to the modern era and incorporate new technology. As local authorities and regulators we should not hold back legitimate businesses who wish to move forward with technology.

17. Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”?

- 17.1 This is a difficult one as the Scottish system of “arrangements made in a public place” is not known. We feel it is preferable to look at fresh new legislation and are always concerned when it is proposed to cut and paste from other legislation that we don’t know.
- 17.2 This is an area that would be new and the overall affect on the local authority is unknown. This may well make the enforcement of any offences or misdemeanours easier. You will be aware that it is always in the writing of the legislation that the real impact of such measures will show.

18 Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained.

- 18.1 This should be kept for Hackney Carriage Drivers and should be slightly altered to remove the “cannot reasonably refuse” wording from the Act.
- 18.2 The word reasonably can be interpreted in many ways and should not be in the legislation. The word should be removed to leave “cannot refuse a fare on any grounds other than”. We feel it should list the reasons for refusal. We are aware that this would take some organising and the wording would have to be robust to allow no room for misinterpretation of what is required of the driver.
- 18.3 The Council may need to revisit their bye laws in respect of Hackney Carriages and the refusal of fares if the legislation changes. It may be that the legislation just supersedes the need for byelaws and the council would only need to adopt the new legislation. This will not be answered until the formal legal process begins and the new legislation starts to take shape.

19. Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked.

- 19.1 We fully support this approach it is the sensible option if we are to maintain a two tier system.
- 19.2 We would suggest that it states “that taxis that are pre-booked must then follow the law with regards to a private hire operator and they must keep written records of pre bookings, pick up points, passenger names, fare and destination”. We feel that this would allow local authorities to monitor and control taxis working as private hire vehicles.
- 19.3 We feel that there is an argument for taxis to keep written/electronic records of all their work as an “operator of a business”. For journeys from ranks and flag downs the records need not have the passenger name and would only require pick up point, time and drop off point plus the cost of the fare. The Local Authority, Police and / or Inland Revenue should have access on request to these records.

20. **Provisional proposal 20**

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.

- 20.1 This is already permitted, vehicles can be used for social, domestic and pleasure. The difference is that they still have to be driven by someone licensed to drive a taxi or private hire vehicle.
- 20.2 If this proposal is of the view that non licensed drivers are permitted to drive a vehicle if it is not “working” then we are totally against this proposal entering the new legislation. This would cause an unknown amount of work and conflict and it would be open to interpretation. It would be an open door to unlicensed drivers (criminals, sex offenders etc.) to drive a licensed vehicle. The stated case law from Benson v Boyce has to be the way to forward and must remain in place.
- 20.3 There are many scenarios where if this proposal was allowed, drivers would abuse the system. It would be nearly impossible to evidence a prosecution against unlicensed drivers. Would it be enough for a simple letter from the owner to remove the offence. The legislation needs to be made more robust and prevent circumvention of the law. We in Sheffield feel that this would be a backward step.
- 20.4 To allow licensed vehicles to be driven by unlicensed drivers may cause significant confusion especially if for all intents and purposes they still look like a licensed vehicle (stickers / plate etc.). Police and Local Authority Officers would never know when a vehicle is working as a licensed vehicle or it is not!! This would enable an easy way of avoiding an offence.
- 20.5 Workloads would increase for local authorities as the simple matter of complaints would need much more intense investigation just to ascertain whether firstly the vehicle was being used as a licensed vehicle at that time. If not the complaint could not be taken further, what proof would we need to say it was not being used professionally. It would be totally unhelpful for the public and users of licensed vehicles. The drivers would use this as a get of jail card for complaints.

- 20.6 This would also affect Road Traffic Regulations would an unlicensed driver in a licensed vehicle be allowed to use the bus and tram gates? How would anyone know whether the vehicle is being used in a professional capacity at the time and therefore cannot use the bus lane. Authorities would have to issue tickets to all licensed vehicles just to make sure that the driver was using the vehicle professionally and it was not his wife doing the shopping and beating the queue. What would be acceptable as proof that it was being used professionally?
- 20.7 There would also be confusion on insurance matters. The certificate would contradict itself it would list unlicensed drivers who can only drive for the purpose of social domestic and pleasure but it would have to cover the licensed driver to perform their duties within that licence.
- 20.8 If it was decided that all visual aspects of the licensed vehicle were removed as its identity of being licensed, exterior and interior plates, door signs, roof signs (if applicable), and any other identifying features. It may also require that the legislation states that if the plates are removed from the vehicle for this purpose they are returned to the local Authority for "safekeeping" where a record can then be made and the return of the plates can again be monitored.
- 20.9 However all in all it is our view that this proposal is removed and not taken any further.

21. **Provisional proposal 21**

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements.

- 21.1 As we have stated previously in our response this means nothing legally. It has been proven and tested in Courts that guidance when issued is just that guidance and not law.
- 21.2 The impact would be minimal if the Council continued in its current way of only using guidance as that and not setting any policy purely on what the guidance says, having full and frank consultation and open discussion on policy is the way forward with guidance in the background to the discussions.

22. **Provisional proposal 22**

Reformed legislation should refer to "taxis" and "private hire vehicles" respectively. References to "hackney carriages" should be abandoned.

- 22.1 The word Taxis has become synonymous with any small vehicles that takes passengers for a fare. The removal of the phrase "Hackney Carriages" would cause more confusion for the public.
- 22.2 It is our opinion that the phrase "Hackney Carriage" should remain in all legislation and correspondence etc.

23. **Question 23**

Should private hire vehicles be able to use terms such as "taxi" or "cab" in advertising provided they are only used in combination with terms like "prebooked" and did not otherwise lead to customer confusion?

- 23.1 I believe that the word taxi especially on private hire vehicles is confusing to the public. This is paramount on vehicles of the same make and model that are used around the country as both private hire and hackney carriages. In Sheffield this may be less of a problem but the main sign on a hackney carriage in our City is the illuminated orange sign that says TAXI on it, we also have those words on the sides of our “eurocabs” to help distinguish them from private hire vehicles of similar appearance. Cab is a different aspect and again this is down to the perception of the public and to the public as a cab is a cab etc what ever system that vehicle is operating under.
- 23.2 It is our view that we should be making it easier for the public to understand and therefore suggest that the word “taxi” and “cab” should not be allowed in this scenario.

24 **CHAPTER 15 – A REFORMED REGULATORY FRAMEWORK**

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements.

- 24.1 Looking at the consultation paper from the law commission this is slightly misleading as it relates to general matters and not physical safety matters it talks about setting national standards for hackney carriage vehicles, but allows for additional higher standards that may be imposed by the local council. It mentions that the Council would retain the ability to set fares.
- 24.2 Minimum standards are fine but can set dangerous precedents. Any minimum standard must be backed up within the legislation so that it protects the Local Authorities that wish to have higher standards for what ever reason they choose. There would have to be no appeal provision in the legislation against a Council who have democratically decided that the standards they require on a local level. We must keep the local powers for local people to decide what they want in their area
- 24.3 Local standards should be well advertised and documented and reviewed on a regular basis (3 years) for reasonableness, and adapt to changes in manufacturing of vehicles, safety features, economic and green issues.
- 24.4 If minimum standards were introduced then the Council may have to review all its specifications and also any policies on the age limits, emissions, vehicle test regimes, and also testing of applicants.
- 24.5 If Councils set higher standards as allowed by the legislation then if the legislation is weak and does not specifically protect a Council from a challenge on those higher standards then the Council may face many legal challenges to its vehicle standards, or policies. It may be in certain cases that it is a judicial review that is needed and not a magistrates court appeal. This will depend on the legislation and how it is written. Judicial reviews cost far more than a magistrates court appeal. Once a decision by a Court finds that the Local Standards are “too high” (unreasonable) then that would affect all other vehicle applications and specifications from that day onward.

25. **Provisional proposal 25**

National safety standards, as applied to taxi services, should only be minimum Standards

- 25.1 This has been answered in the above paragraphs. Any national standard has to be a minimum standard and we MUST maintain the option of local choice.
- 25.2 Standards that are not minimum standards will mean that many local authorities across the Country will suffer a severe reduction in local standards and public safety.
- 25.3 We support the possible introduction of national minimum standards but only if there are powers within the legislation to increase those standards locally to achieve what is required locally by elected members and local people.

26 **Provisional proposal 26**

National safety standards, as applied to private hire services, should be mandatory standards

- 26.1 We are totally against this proposal as it would mean that a local authority would lose local control. We must ensure that powers are devolved locally. It is essential that locally elected members and the residents of Sheffield are allowed to decide the standards we want in Sheffield.

According to the paper this will cover all aspects of private hire both operators and drivers.

- 26.2 In Sheffield this would lead to a significant reduction in standards and public safety including the possible loss of our locally set training standards for applicants. It may also lead to losing parts of the application process such as topographical test for private hire drivers.
- 26.3 This would to me mean that hackney drivers would appear to be the elite of drivers and the perception of a private hire driver would be second rate drivers that are not of the right standard to become a "real taxi" driver. We would propose that you should be looking at higher standards rather than down grading the work undertaken locally by authorities and trades.
- 26.4 This would lead to a two tier system for drivers as well as vehicles. It would involve a major amount of work on software packages. We would require a two tier monitoring system that would clearly define the private hire drivers from hackney carriage drivers.
- 26.5 You would also need to look at allowing conditions to be put on a hackney drivers licence as currently this is not legal right to you cannot have conditions on a hcv drivers licence. These currently have to be governed by byelaws.

27. **Provisional proposal 27**

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers.

- 27.1 “See above” the same principals apply on this proposal as proposal 26. This is a major lowering of standards for drivers, and considering that the applicants would not be required to undertake any test prior to getting into a vehicle should never be permitted. Members of the public who use these vehicles want some assurance that the driver knows what they are doing.

28. **Question 28**

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable?

- 28.1 The simple answer is yes. The current situation is that a council may place conditions on a private hire vehicle licence stating what type, size and location any signs appear on or in the vehicle.
- 28.2 We do not support any proposal that removes local control for local people. This would extremely detrimental to a city like Sheffield that has worked extremely hard to maintain high standards and to work in partnership with the trade. The localism principle must be maintained throughout the new legislation.
- 28.3 This change would make it very hard to locate and identify vehicles when on enforcement duties. Also if you mix this with proposal 20 by allowing any driver to drive when not being used a licensed vehicle it will lead to the vehicle being unidentifiable to officers or the public.
- 28.4 City and Towns with event venues or airports would suffer even more as they may not identify out of town vehicles that may be there on legitimate business, and unlicensed vehicles that may arrive for pick ups or set downs.
- 28.5 It is essential to maintain the ability for local authorities to set local standards.

29 **Question 29**

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles?

- 29.1 This would be virtually impossible there are so many different standards around the country. These are set to meet local needs, national standards can not achieve this on their own.
- 29.2 A minimum standard would either be too high or too low for many different Authorities and would cause major problems within those Authorities. This would just be unworkable and unsatisfactory.
- 29.3 I must reiterate what I have already said several times in this response. National minimum standards would be acceptable as long as the

legislation gave power within the legislation to local authorities to set their own higher local standards.

30 **Question 30**

Should national conditions in respect of driver safety be different for taxi services compared with private hire services?

- 30.1 It is commonsense that these should be different if the vehicles they use are different. If a hackney carriage is a purpose built one as we have in Sheffield then the specification and local conditions can aid driver safety by use of partitions, intercoms, lighting and signage these are all part of the specification of a vehicle that is purpose built as a hackney carriage.
- 30.2 In private hire vehicles imposing standard conditions across the large spectrum of vehicles is extremely difficult and would be impossible to have a single national driver safety condition that would cover all eventualities.

31 **Provisional proposal 31**

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should only cover conditions relating to safety.

- 31.1 This again is confusing as what is meant by safety and safety of whom, the driver, operator or passengers or all three.
- 31.2 We do not support this proposal if there was a safety issue but the Secretary of State had not set a standard for that particular issue then that would lead to confusion. Drivers would then put anything in the vehicle or the issue would be ignored, and the licensing service would be powerless to do anything about it.
- 31.3 Once again the power and benefit for local standards and local decisions is clear to see.

32 **Provisional proposal 32**

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement.

- 32.1 If it is decided to impose National Standards then yes they should be subject to an extensive consultation process.
- 32.2 As stated in proposal 31 above we are against this proposal.

33. **Question 33**

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel?

- 33.1 A technical advisory panel, however, this would depend who is invited to be on that panel and what legal sway the panel will have.

34 **Provisional proposal 34**

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards.)

- 34.1 This is a must to retain the high standard of vehicles expected by members of the public / users of this service. We fully support this proposal. The power to set higher standards must be included in the main body of the legislation to provide the proper legal powers..
- 34.2 The Law Commission need to be referred to and look at the localism bill where it is the Governments intention to bring a lot of areas of regulation back to the local people to administer. Not being able to retain a power to set your own local standards would fly in the face of this idealism of local control.
- 34.3 Local Councils should retain the ability to set local emissions policies in line with European Legislation and guidelines.

35 **Question 35**

Should there be statutory limits to licensing authorities' ability to set local taxi standards?

- 35.1 Guidance to local authorities is always beneficial and that is clear to see from the use of the guidance issued under the Licensing Act and Gambling Act respectively. We would propose that government do not use words such as reasonable as this is always confusing to both applicants and elected members.
- 35.2 Guidance notes on what can be considered in local terms as an enhancement to the National Standards would be beneficial to local authorities.

36 **Question 36**

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators?

- 36.1 Yes without a doubt. Any erosion of this power would lead to the local authorities having no powers at all over the drivers they licence.
- 36.2 There are no powers currently to impose conditions on a hackney carriage driver's licence. The Hackney Carriage drivers are governed by bye laws. This is an area we feel should change under these new proposals. We would propose that the new legislation allows local authorities to impose individual conditions on ALL types of license that we issue.
- 36.3 This would enable authorities to impose conditions on hackney carriage drivers licences, that could be different to that of a private hire drivers licence and vice versa. Licence specific conditions to deal with individual issues that arise at different times. There are conditions needed on individual licences, for example a driver who commits certain misdemeanours could have added conditions, such as presenting documents within certain periods, keeping records of journeys etc.

37 **LICENSING AUTHORITIES WORKING TOGETHER**

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements?

- 37.1 This is an excellent idea and promotes partnership working across local authorities. We feel that this should be formulated in the way like that of a police officer whose powers are nationwide although they work in a specific area / police force.
- 37.2 The power of a licensing officer should be the same. An officer should be able to deal with any PHV, HCV and Driver whether they are the issuing Authority or not. We would propose that this is worded in a way to allow an Authorised Officer of a Council to be able to approach and deal with vehicles and drivers that are not licensed by their particular Council but only whilst in their own Council boundaries. This would mean that "out of town" vehicles and drivers could be inspected and spoken to and action taken if needed by officers of the Authority that the vehicle and driver are in at the time.
- 37.3 If national minimum standards for vehicles are formulated then the officer should have the power to suspend a vehicle licence if in their opinion the vehicle falls below the minimum national standard. This can then be reported to the issuing Authority for them to deal with.
- 37.4 Having a statutory footing places a responsibility on all authorities to deal with the issues responsibly and should remove the issue where some authorities do not regard taxi licensing as a priority and put no real effort in to enforcement or administration. A statutory duty to do so and to accommodate the requests and actions of other Authorities places a responsibility upon them.

38 **Provisional proposal 38**

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting.

- 38.1 This is a sensible proposal in this modern and difficult era of financing services. The option of shared service may be of significant benefit to many local authorities. This would be of particular benefit in rural areas where there is a number of authorities that cover a wide area but have little or no taxi, private hire services.
- 38.2 You will need to guard against the culture and belief that it is just an option for the larger authorities to take over smaller neighbouring authorities.
- 38.3 This is where local standards are essential and to have the ability in the legislation for local authorities to introduce standards higher than the National Standard.

39 **Provisional proposal 39**

Licensing authorities should have the option to create, or remove, taxi zones within their area.

- 39.1 This is something that we have never had in Sheffield and something that officers and elected members in Sheffield have not experienced.
- 39.2 If the lifting of limitation on the number of HCV a Council may licence is recommended by this review then I believe the ending of zones should also be part of the review. If limits are a bar to someone earning a living then “barring” that person from a certain area of an Authority then must fall into the same category and is a similar argument against restriction of trade.
- 39.3 Enforcement of zones is tricky and relies on the knowledge of officers and has a knock on effect that there may be the need for plate and licence colour schemes to show which areas and zones a hcv can operate in.
- 39.4 We would propose that taxi zones should are not introduced into the new legislation and that Local Authorities must remove existing zones.

40. **Question 40**

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority?

- 40.1 Enforcement of this type of licence is extremely difficult, when is a person at work, when is that person doing a personal pick up of friends and family.
- 40.2 We are against including any powers in the new legislation to issue peak time licences. We believe in allowing the trade decide when and where they want to work and numbers of licences will control them selves.

41 **Provisional proposal 41**

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority

- 41.1 The operator’s conditions would have to be altered to make them keep proper records of any vehicle and driver they use within their business and I believe that should be whether the vehicle is a hackney or private hire vehicle.
- 41.2 If this was to happen it will be open to significant abuse by operators who will use unlicensed drivers and vehicles and claim that they are licensed within other areas.
- 41.3 This proposal would be complicated further if drivers decided to work for more than one operator, what signage are the obliged to show and

when? Who do they report to, who do the public complain to if a job is completed by a Barnsley driver but was taken by a Sheffield Operator?

- 41.4 Local Authorities may well compete for the business of licensing operators especially if they are allowed to use non locally licensed vehicles, and especially if the fee for an operators licence differs greatly from one authority to another.
- 41.5 It is opinion that this should not be part of the new legislation as it raises more questions than answers and would create a major problem with control and enforcement.
- 41.6 We would propose that operators can only operate vehicles and drivers from the authority in which they are licensed and based. We would like to see stricter controls in this area not a relaxation.

42. **Provisional proposal 42**

We do not propose to introduce a “return to area” requirement in respect of out of- area drop offs.

- 42.1 Not a problem with this proposal currently in Sheffield have no return to area/base policies or conditions.
- 42.2 As with other parts of this review this becomes more complicated if other proposals go forward, especially proposal 41 above allowing drivers to work for another areas operators.

43 **Provisional proposal 43**

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares.

- 43.1 This raises many issues, there are differing opinions on this across the spectrum of local authorities, officers, trades and service users. If we are to regulate the number of hackney carriages then I can see the need to regulate the maximum fares that can be charged by a driver and the need for a meter to reflect this within the vehicles.
- 43.2 This particular issue of fares is probably one of those areas that come under the comment of “because we have always done it that way”. Council’s do not and can not set maximum fares for private hire vehicles, operators and drivers to charge and why not because its the belief that market forces will protect the public from rising prices as there is no limit on the number of private hire vehicles that can be licensed or the number of private hire operators that can be licensed.
- 43.3 If there is no limit allowed on hackney carriages then why not treat them as we do the private hire provision and allow them to set there own fares, that are advertised in the vehicle or on the near side window facing outwards.
- 43.4 There is nothing to prevent hackney carriages drivers or an operator of multiple vehicles advertising the fact that they are the cheaper vehicles and under cutting the opposition. This of course could cause confusion, conflict and ill feeling on the ranks when the customer chooses as is

currently their right the hackney that is the cheapest rather than the one at the front of the rank.

- 43.5 We feel that a more suitable proposal would be to have a maximum fare by mileage that all vehicles (private hire and hackney carriage) that are used for the purpose of hire and reward can charge within a local Authority area and that the maximum fee is set by that Local Authority.
- 43.6 This would be less confusing for the travelling public as they could find out the cost of travel in the City via the internet, this would also allow for better provision of information to the Inland Revenue on what earnings a driver may earn for the mileage they do. They would then have to prove that they charge less than the maximum allowed to not pay the full tax on journeys they have carried out for a fare.
- 43.7 It would still leave operators the ability to charge less if they wish and ultimately they would be judged on customer service alone rather than price.

44 **Question 44**

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (Page 200)

- 44.1 We believe the simple answer to this is no, if the meter fare is fixed then there is no need to charge extra. The fares are decided democratically and are set to provide a suitable income to the driver and should always be considered in an open meeting and advertised to the general public where a right of objection is allowed. This takes into consideration the financial implications, running costs and overheads of a driver.
- 44.2 There is no difference with a pre-booked journey, if limitation is lifted then there is going to be more and more hackney carriages working on a radio circuit and being used as private hire vehicles.
- 44.3 If the proposal to allow immediate pre-booking as per proposal 19 and considering pre booking by technology, what is then classed as pre-booked could a hackney carriage vehicle at a rank be considered pre-booked by the customer in the queue at that rank, the driver is guaranteed a fare they just dont know where to?
- 44.4 It also raises the question of whether a taxi marshal can be considered a booking agent for the hackney carriage vehicle therefore the driver in both these cases could charge more than the metered fare!
- 44.5 We feel that it should remain a legal requirement and become a legal requirement in the new legislation that where a meter is fixed in a vehicle then the driver has to use the meter for any journey that is for reward where ever that journey commences and finishes, and the fares charged have to be that on the meter and set by the Authority that issued the licence for the vehicle and calibrated that meter when the vehicle was tested by them.

45 **CHAPTER 16 – REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING**

Question 45

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions?

- 45.1 We are of the opinion that the standards for fit and properness should be set out in the primary legislation and should be of a high standard. We have set high standards for our drivers to attain in Sheffield and would not like to see any erosion of these standards and would be happy for the Country to follow Sheffield’s lead.
- 45.2 Any primary legislation that covers this should include the details of training levels required to have been achieved prior to making an application to any local authority and these should be transferable skill sets to allow migration of drivers.
- 45.3 This is the chance to actually remove the wording fit and proper and replace with a better wording that sets out what is meant by being fit and proper and what an applicant has to do to prove his/her fit and properness to be eligible to be licensed for such work.
- 45.4 The secretary of state should have the powers to amend the conditions and requirement where and when necessary to meet new requirements and economic or other developments that may change, over a period of time. They need to be able to act on new legislation, European law that may impinge on the current legislation.

46 **Provisional proposal 46**

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. (Page 204)

- 46.1 This is the current situation there is no fit and proper test that can be seen in current law that allows the refusal or revocation of any vehicle licence on the grounds that the person who owns the licence is deemed unfit.
- 46.2 Our view is vehicle owners and licence holders should be fit and proper or what ever is deemed appropriate in the new legislation to replace the wording fit and proper.
- 46.3 A local council should have the power to refuse, suspend or revoke vehicle licenses on the grounds that the proprietor or licensee is deemed unfit to hold such a licence. In many city’s there are vehicle owners/licensees that hold no other licenses, due to their offences. These people should be able to be brought to account or refused

licenses if in the past they have committed misdemeanours or breached conditions of licence.

- 46.4 There is a lot of money made in this area and not permitting checks on the individual will allow and increase the amount of criminals that enter the trade and bring the trade down as a legitimate business, money laundering would be easy with no checks on people within the business.

47 **Question 47**

*Should national vehicle safety standards be either:
(a) set out in primary legislation; or*

(b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions?

- 47.1 It is essential that these be included within the general powers of the Secretary of State to allow a quick response to changing vehicle specifications and modifications which may impinge on set standards for vehicles.
- 47.2 We would like to reiterate that these should always be minimum standards set and allow higher local standards to be set above the minimum if necessary by local authorities.

48 **Provisional proposal 48**

Operator licensing should be retained as mandatory in respect of private hire vehicles.

- 48.1 Yes it is essential with regards to public safety that we maintain control of private hire operators. We would also want to retain the fit and properness test for operators.
- 48.2 They may wish to allow transfers of an operator licence which is currently not possible under the legislation. Any person who wishes to have a licence transferred in to their name should have to comply fully with the fit and proper criteria as above.
- 48.3 This may cause problems with monopolies allowing the bigger companies to buy out the smaller competition. However, this does already happen.

49 **Question 49**

Should operator licensing be extended to cover taxi radio circuits and if so on what basis?

- 49.1 Our view is yes they should. If a hackney is to be allowed as is the current situation to undertake private hire work then whilst doing that work they should have to adhere to all private hire rules and regulations.
- 49.2 They would have to document which work they carried out as a private hire vehicle, keep records of journeys, bookings dates and times

customer names and pick up and destinations. This would allow Local Authorities to deal with complaints and give the passengers better protection.

- 49.3 If we are to have a cover all law then any operator or vehicle & driver hire services should have to be licensed and traceable, and should have to comply with set standards that they have to maintain whatever type of vehicle they wish to use for the work.
- 49.4 There is really no difference to the work that a private hire operator does to that of a hackney carriage operator for the purpose of pre-booked work.
- 49.5 We fully support this option for the reasons of passenger/public safety and complaint investigation.

50 **Provisional proposal 50**

The definition of operators should not be extended in order to include intermediaries.

- 50.1 This is a difficult question as intermediaries are many things to many people and can be touts by another name.
- 50.2 If there are new technology developments that helps a persons business then we cannot see a reason why this type of system should not be included, such as internet bookings etc. Why would the internet provider need to be included in the operators licence or legislation, as long as the operator declares on his application the way in which they will engage in bookings and the results and records are open to inspection by Authorised Officers.
- 50.3 This would allow partnerships to develop between providers possibly from city to city and would aid such things as door to door services for train, air and possibly ferry/cruise services. Where a company adds a service for its customers and takes a booking for a vehicle and driver that is provided by a local operator with whom they have a business partnership, this at present would be and is making a provision for a booking and would require the primary service provider to have a operators licence within the area of where the booking was made. (Call centre).
- 50.4 A person who acts on street for vehicles should be part of the operator business and should be identifiable to the public as to what and who they are representing. This has to be there to protect the public and allow fair trade amongst the providers of any taxi service.
- 50.5 It should still remain against the law for any person to tout for private hire and hackney carriage services.

51 **Question 51**

Should "fit and proper" criteria in respect of operators be retained?

- 51.1 We have answered this in our answer to proposal 48. Fit and proper should be maintained and improved upon in terms of explanation of what is meant by fit and proper.

- 51.2 This should include mandatory restrictions on people found unfit in any area to hold a licence to apply or hold a licence in England and Wales. It should be a criminal offence to withhold information or to apply for a licence if you have been subject to a revocation of a licence within the last 10 years.
- 51.3 Bankruptcy and Business history should also be considered in the fit and proper testing of applicants. The business of private hire operators and hackney operators has to be legitimate and customers should be confident in using these services as much as when using a garage, or any other professional service.
- 51.4 The service of providing transport in this way should not been seen as it currently is that it is which is run by undesirables, crooks and people of low moral fibre.

52 **Provisional proposal 52**

Operators should be expressly permitted to sub-contract services.

- 52.1 In the 21st Century and how business is opening borders I cannot see why this is not allowed. However, it must be contained within certain parameters.
- 52.2 The customer should be fully aware prior to the completion of the booking that the operator is sub-contracting to another licensed operator. The customer should also be aware at the outset of who that operator is, where they are based and should have the right to cancel if they do not wish to have the sub contractor provide that service at no cost to themselves.
- 52.3 The Operator should keep a list of sub contractors they use and must keep records of the licence details of the sub-contractor and make these available on request to an authorise officer or police constable from any Authority with an interest in that booking. Failure to keep such records should constitute an offence.

53 **Question 53**

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply.

- 53.1 Our view is yes and this is answered above. There is no difference between that of a “single vehicle” private hire operator to a single hackney carriage driver using his vehicle for the purposes of private hire.
- 53.2 We believe that all hackney carriage drivers should be required to keep a record of all journeys they do for reward. Such records should have the pick up point, drop off point and cost of journey (metered fare). It would not have to include name of passenger or amount of payment if that is different to the fare on the meter such a tips etc..
- 53.3 This would allow for better controls of vehicles and investigation of complaints. It would also allow the inland revenue to receive more

appropriate information and therefore impose the relevant tax for the work undertaken. This would also protect the driver from receiving unexpected tax bills which use a current average system.

- 53.4 It would be extremely beneficial if meters had the ability to record journeys and costs so these could be used to rectify this area of concern.
- 53.5 There are meter's on the market that allow printed receipts and produces daily takings and readings, similar to a cash register. We feel that this would be a positive step forward to impose a mandatory condition in the legislation to install such meters.

54 CHAPTER 17 – REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers.

- 54.1 This is very emotive subject amongst both the trade, licensing officers and elected members that have to regulate the trade. It is also seen in some areas as a very political hot potato that no one wants to touch.
- 54.2 To look at this objectively we must not take into consideration the consequences of any decision on the welfare and earning power of current licence holders. Therefore, looking at the facts alone, quantity controls by local authorities are not common place. There are very few if any other pieces of legislation that allow local authorities to control the numbers of a certain type of business. This particular government are looking to remove barriers to business and the start up of businesses and we have to remember that a hackney carriage vehicle is a business.
- 54.3 We have to consider why do we control the numbers of hackney carriages within the local area? We do not control the numbers of private hire vehicles. There are many of questions asked and never really answered on this subject. However, the general principle behind the proposal is that market forces will dictate the numbers.
- 54.4 When finalising the proposals it may be worth considering similar powers to those given in other recent legislation around saturation policies.
- 54.5 Another argument on this issue is that now we are in the 21st Century the idea that an area of work “profession” is protected in such a way. Such protecting of income and jobs can not be fair in these modern times and this is the true effect of limitation.
- 54.6 We also have to consider the question of why should taxi driving be a closed shop for owners and licensees which in turn causes a black market. This becomes difficult for people to overcome to get into the business creating cartels of licences/vehicles and plates/licences that have been on vehicles for a long time being worth thousands of pounds to the owner.
- 54.7 What are the benefits to a Council if limitation is removed, it has already been proved that it improves the quality of vehicles on the road

and it also brings an improvement in passenger facilities and safety standards. Generally the newer vehicles are better on emissions and therefore better on the environment.

- 54.8 Hackney carriages are small individual businesses but unlike a static businesses they need to have somewhere in the city for their vehicles to go and trade from. Can local authorities provide enough spaces at ranks and safe places to install new taxi ranks.
- 54.9 When you consider buildings that are available to accommodate businesses, once they are filled then no more businesses can be accommodated, we don't just keep building more premises. It is a totally different consideration for hackney carriages, however, we only have limited space for vehicles on the roads, parking / waiting and ranking areas are very limited within City Centres. Adding more ranks is not a real answer to this as they currently take a long time set up and there is a shifting population within areas and some ranks are rendered unused as places close or trends move.
- 54.10 There is also the Green issues as more and more vehicles added to the mix brings with it the problems of emissions and growing environmental problems. Councils now have to manage emissions and are legally bound to try and reduce emissions and bring their carbon emissions down year on year.
- 54.11 We are in a position of considering the two sides of an argument and it will be no different for those that ultimately consider the new legislation. If limitation is to be allowed why limit only Hackney Carriages, is this not bias? Should private hire vehicles be subject to limitation? If green and space issues are the major points of concern for limitation then surely limitation should cover both types of vehicle.
- 54.12 It is noted that a Limitation Policy was proven to work successfully in Sheffield, and the Committee wished to retain the ability to set limitations at a local level as and when required.

55 **Question 55**

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers?

- 55.1 There would be an initial surge of applications and a significant increase in hackney carriage vehicles, which would in turn cause an initial increase in workloads.
- 55.2 Many of the issues are covered in our answer to question 54 above.

56 **Question 56**

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed?

- 56.1 If the restrictions on numbers are lifted then undoubtedly there should be some transitional period for this. We would also like to see national conditions on the age and type of vehicle that can be used. For example, London Type Taxi Cabs, Wheelchair Accessible Vehicles only, under 5 years of age or less.

- 56.2 It would also be beneficial if the new legislation imposed restrictions on individuals having multiple ownership of vehicles ending the cartels. If this was agreed then we would need to regulate who and how transfers of licenses can be monitored.
- 56.3 Currently there is no legislation that covers who a hackney carriage licence can be transferred to and this needs to be dealt with in the areas mentioned before in this consultation that brings in the fit and proper tests for licensees. This should cover vehicle licence transfers as well.

57 **CHAPTER 18 – TAXI AND PRIVATE HIRE REFORM AND EQUALITY**

Question 57

Should there be a separate licence category for wheelchair accessible vehicles? This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and*
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles.*

- 57.1 Our view is there is not a need to have a separate licence category.
- 57.2 The conditions of a drivers licence should have some reference to the carriage of passengers with disabilities and the service that any person should expect, this should be part of the legislation as it is now, and it is illegal for a driver to discriminate against people with disabilities as we all are aware.
- 57.3 The new legislation should support the Equalities Act regarding accountability of drivers who discriminate against people with disabilities.
- 57.4 There should be a moral duty on any Authority to provide adequate provision for disabled passengers and to make provisions for the loading and unloading of wheelchair passengers at ranks.
- 57.5 Legislation should place a duty on all Councils to consider the need for access of taxis when considering major building projects especially those of a commercial nature. Too many buildings especially within the leisure industry which attract taxis never consider this when the initial plans are submitted for planning consent. Legislation should allow Councils to dictate the need for “taxi spaces/ranks” to be incorporated into any new commercial and leisure development.

58 **Question 58**

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards?

- 58.1 We view that this would be a problem and illegal currently. We can only charge a fee to recover the cost of administration and grant of a licence.

- 58.2 Local Authorities could face legal challenge if they were to have different levels of fees dependant upon the type of vehicle you want to licence. It would generally take the same amount of administration issue a licence for a WAV or non WAV and therefore you would be over charging which is illegal for the non WAV.
- 58.3 We believe that the new legislation should incorporate the allowance for local authorities to recover costs beyond the basic administration and grant of licences. Local authorities should have remits to offer inducements for such matters of new vehicles for old, low emissions vehicles , wheelchair accessible vehicles etc.
- 58.4 If the legislation changed the way the Councils can recover costs and what they can recover costs for, Then yes we do think that being able to offer incentives would be a good idea and help to improve the licence fleet.

59 **Question 59**

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers?

- 59.1 The problem that many areas face with this is the lack of private hire vehicles that are wheelchair accessible, there are many areas that have WAV vehicles as hackneys that are available for instant hire at ranks, and flagged downs.
- 59.2 In areas like Sheffield where we have 100% WAV hackney carriage fleet. However, there is little or no private hire vehicles available with wheelchair access. Therefore disabled users have to pre plan their travel arrangements they cannot decide at the last minute to head out, and phone a private hire vehicle operator.
- 59.3 There may be some way of adding a condition into a private hire operators licence condition that they have to offer disabled access vehicles as part of their service. This could either be hackney carriages that are on the radio circuit or private hire vehicles that are wheelchair accessible.
- 59.4 If question 58 is answered and the law changes to allow incentives then these could also be offered to private hire vehicles and their owners to encourage them to purchase and use WAV private hire vehicles.

60 **Provisional proposal 60**

We do not propose to introduce national quotas of wheelchair accessible vehicles.

- 60.1 We have known for many years that quotas of this nature would not be workable and would never come into force. These matters can be tackled in other ways and have been mentioned before in this response. Things like minimum standard of entry vehicles and making any vehicle that now enters the hackney carriage trade should be a WAV, again there is resistance to this especially in areas that have mixed fleet of hackneys.

61 **Provisional proposal 61**

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training.

61.1 In Sheffield we have introduced this and have a BTEC course as standard entry level in to our trade we would see this as a must to be taken up Nationally, pre entry training for the trade should be become mandatory.

61.2 Training is either weak or non existent in this area of work. The standard of training is hit and miss and the trade needs to have a nationally recognised certificate which is transferable, and is the minimum needed to make an application for a licence anywhere in the Country.

62 **Provisional proposal 62**

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority.

62.1 This is something we already do in Sheffield and bringing it in as a national standard would be a huge step forward. The enforcement side of this needs some teeth, such as failure to display such information should have some consequences for the licensee.

63 **Question 63**

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help?

63.1 This would need strong legislation with some teeth to deal with the offenders. Proof of failing to stop would be the hardest thing to resolve. Drivers conditions need to reflect that and therefore we need as mentioned before the ability to place conditions on a hackney carriage drivers licence as well as those of a private hire driver.

64 **CHAPTER 19 – REFORMING ENFORCEMENT**

Question 64

Should authorised licensing officers have the power to stop licensed vehicles?

64.1 We fully support this proposal and it is something that licensing officers in appropriate circumstances and in marked vehicles or uniforms should have the power to do.

64.2 Officer safety would have to remain the priority of the employer. But with licensed vehicles an authorised officer should have the same power as that of a police officer.

- 64.3 This power should be for any licensed vehicle wherever that vehicle is licensed from.

65 **Question 65**

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”.

- 65.1 Touting is currently the only arrest able offence within the legislation and this power with the police should remain.
- 65.2 This though is contradictory if you lessen the conditions on private hire operators and what they are allowed to do, and where they are allowed to advertise. Would a person handing out flyers advertising the instant access to a private hire vehicle be a TOUT would a person walking with mortar board type advert on them – would that be touting.
- 65.3 There doesn't appear to much more that can be done to address this problem accept maybe making it legal but with very tough conditions and then making the penalties for offences or non compliance with the conditions tough and meaningful.
- 65.4 If you make it legal then making a tout were identification badges and uniforms make them advertise the costs of the service up front prior to users getting in the vehicles. This works abroad at airports and train stations, it may be the way forward here. It would also be beneficial to the local authority as they could administer the system and make charges for a touts (booking agents) licence.

66 **Question 66**

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules?

- 66.1 This may be desirable only on strict guidelines similar to those for clamping companies. There needs to be defined reasons for impounding or clamping of licensed vehicles. This has to include the identification of the driver, and must include the road worthiness of the vehicle.
- 66.2 As a Council we have to consider where these vehicles would be kept whilst impounded. Impounding vehicles is a costly exercise and the local authority would need to be able to recover fully the cost of impounding a vehicle entails, also they should be allowed to recover an administration charge.
- 66.3 There would also need to be something in place to dispose of vehicles that remain impounded and unclaimed, some time limits need to be set on the length of time a Council has to “save” a vehicle for collection by its licensee.

67. **Question 67**

Should licensing authorities make greater use of fixed penalty schemes and if so how?

- 67.1 There are currently no schemes available to officers in taxi and private hire licensing.
- 67.2 Introduction of fixed penalty schemes would be welcomed only if the monies recovered by the notice stayed within the licensing service and particularly stay within the taxi licensing services and used to off set the need to raise fee's year on year. This would mean that the misdemeanours by others would aid the law abiding drivers and licensees in helping keeping costs down.
- 67.3 There would need to be national guidelines of the charges for a fixed penalty notice.
- 67.4 The appeals procedure and the procedures and penalties for none payment or refusal to accept a fixed penalty need to be set out in the legislation.

68 **Provisional proposal 68**

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas.

- 68.1 We have identified this area of concern earlier in this report many times. Licensing officers powers should be the same as a police officer in and their powers are transferable across boundaries and city borders. And especially when the officers is within their own authorities boundaries they should be allowed to enforce national standards and powers over "out of town" licensed vehicles.
- 68.2 If proposal 67 is adopted, then the fixed penalty notice issued should be of a national standard (similar to the police FP for driving offences), This then can be sent by the issuing officer to the Authority who issued the licence to the driver or vehicle and they can then deal with the matter, the monies would remain with the licence authority that issued the ticket as they have completed the enforcement.

69. **Question 69**

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this?

- 69.1 Our officers have stated that this is something that would be welcomed and must be introduced by new legislation. The best way of achieving this is to have national minimum standards and then if a vehicle or driver was below the national minimum standard an officer could take action and suspend a licence until at least the minimum standard was achieved. Another way would be for a driver or the vehicle to be duty bound to carry the appropriate standards document issued to them by the licensing authority.
- 69.2 The officer should then be obliged by the legislation to make a full report to the issuing licensing authority of the reason for suspension.

- 69.3 This should be done in a uniformed way around the Country and maybe the introduction of national suspension notices similar to the VOSA prohibition notice could be introduced.
- 69.4 The power to revoke a licence that you have not issued is not needed.
- 69.5 The immediate suspension and report to the issuing authority should be enough and the issuing authority should retain the only power of revocation.
- 69.6 If this is part of the legislation it should also introduce the power of an officer to remove identifying features from the vehicle such as the licence plate, this could be then returned with the report of the incident to the issuing authority.
- 69.7 This is needed for areas that have large entertainment venues, race courses, airports, festivals, sporting arenas, anywhere that would attract a customer base from outside of the region or city.

70 **CHAPTER 20 – REFORM OF HEARINGS AND APPEALS**

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence.

- 70.1 We agree that this is a sensible approach to this. At present the appeal is open to any aggrieved party, which can mean literally any citizen of the city making an appeal against a decision.
- 70.2 This is a little known process and does not get well used. Appeals are usually by the aggrieved person and in Sheffield there has not been an appeal on refusal, grant or renewal by any one other than the applicant in the last 15 years.
- 70.3 This would remove the right of appeal against a decision to renew as the applicant would have achieved their goal of gaining a licence and it would remove the right of a person who was aggrieved by that renewal appealing against the Councils decision.
- 70.4 The appeal against conditions imposed on the grant of a licence would need to remain.

71 **Provisional proposal 71**

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision.

- 71.1 Our view is that this would be a complete waste of time, unless all authorities had to delegate powers to officers to allow them to refuse, and revoke licences. This is currently not the case in most Councils and is not the case in Sheffield the right of refusal and revocation remains with an independent licensing committee.

Most authorities have a second tier usually elected members who have the delegated authority from full council to administer licensing duties.

If this came in and powers were not delegated to officers, it would mean the duplication of duties and re-hearings.

- 71.2 Some areas may not have enough Councillors to provide a new committee to revisit the original decision.
- 71.3 Timescales would have to be imposed as to not allow Council to leave decision open and the applicant waiting unreasonable times for a decision.
- 71.4 Would the appeal be a full re-hearing of the original hearing, would new evidence be allowed at the appeal as is the case currently?

72 **Provisional proposal 72**

Appeals should continue to be heard in the magistrates' court.

- 72.1 If delegated powers are not granted to high ranking officers then yes appeals should stay with the Magistrates Court. The new legislation should state that the applicant should have to prove that the Council on the evidence present made an error in judgement, and a wrong decision.
- 72.2 Magistrates should if undecided always side with the original judgement of the Authority. The onus should always be on the applicant to prove that they are fit and proper (or what ever new description is uses) and not on the Council to have to show why they think they are not fit and proper.
- 72.3 Maybe the introduction of the appellant has to supply further or new evidence in their favour before a magistrates court would be able to overturn an original decision by elected members (not officers). The onus would then be on the applicant to supply something to the Court and not just "appeal" ?

73 **Question 73**

Should there be an onward right of appeal to the Crown Court?

- 73.1 Our view is that you have to think about this very carefully as the easy answer is to say no the appeal process should end at the Magistrates Court stage. You have to remember that officers and an Authority can and have used this appeal process for own purposes. When this has been used in Sheffield more case have been proved and won than lost. It is a very expensive way to go and is used very lightly by both parties.
- 73.2 You have to consider that Magistrates are lay people and may have no real understanding of licensing matters when considering the appeal.
- 73.3 This may depend on many things how many levels of appeals will there be, If you have Officer, Committee and then Magistrates Decision that have all agreed and made the same decision is there a need for a further level of Appeal.
- 73.4 If as is currently the case (2 levels) then there may be a case for keeping that extra level.

73.5 This also depends on how robust and watertight the new legislation will be to allow Councils to make decision on applicants which would leave them with little opportunity of winning an appeal.

From: Peter Richmond [REDACTED]
Sent: 10 September 2012 12:30
To: TPH
Subject: taxi reform part 1

Attachments: Taxi and Private Hire Reform.odt

Dear Sirs,

We enclose our response to your questionnaire, we have also enclosed a number of attachments dealing with our local authority, we have a position which as far as I can understand is repeated across the country where the national association of licencing officers on losing the power to control their taxi and private hire fleets in the courts have come up with county groups where they try to control the complete county, the Essex Forum which affects us has effectively over regulated and we are seeing a steady decline of traditional taxi organisations, where we have Uttlesford district which is in Essex but is part of the Suffolk group which have got a more sympathetic approach to licencing which means that they are able to prosper at the expense of all other areas, this also has an effect on applying for contract work particularly with Essex County Council where price is the most important issue, as all other areas have got higher operational costs it means that we are un-competitive in the market place, as you can see from the correspondence that local authorities have no interest in this. A standard level playing field is desperately required, the problem is where to set it, in mid Suffolk council area which is a rural area they provide a detailed 136 pages of rules etc, which entry into the trade appears to be easier than most the operational conditions are far higher than we believe they should be, the result is that you cannot get a taxi before 7 o'clock in the small town that we stay at and there is no service on Sundays, prices are higher than what we charge in Essex, a minimum standard should be applied that would enable districts to provide a service. If the minimum standard is set too high service levels in these areas will be low, the other area one might consider if the licencing association have divided themselves up on a county basis is there some merit looking at private hire being licenced through the county councils in order that the same level of service is applied to all the councils in their area. One of the things that works well in London is the voluntary grading system, in order to stop private hire proprietors recruiting with no regard to the fact that they have got commercial spaces available, would it not be appropriate that new drivers would be given a breakdown of the performance of the company that they wish to join, how many new drivers had joined the company if this indicated high turnover the driver could find out more information, the size of the business, the number of times the company had received warning letters or been sanctioned for whatever reason, it would overnight stop proprietors playing the numbers game and making sure that the people they recruit are of the right calibre for their business, because if not that would affect the prospect of recruiting drivers in the future. Unfortunately in this trade outside London too many proprietors have just relied in the numbers game because of the stringent conditions imposed by councils. Companies feel that if they have more drivers then their opposition they will win the business, while that is true up to a point many of them do not look at the service that they are providing which truly wins business. I hope you find these comments and attachments useful.

Yours Peter Richmond

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Taxi and Private Hire Reform

Proposal 1

Yes keep two tier systems.

Proposal 2

Feel they are out of date ie 25ft turning.

Proposal 3

We agree.

Proposal 4

No.

Proposal 5

We agree please note there is a need for privates which require to that 3 wheelchairs we as a company used taxis which can carry 2 wheelchairs see www.alpine-taxis.com

Proposal 6

Agree.

Proposal 7

We already have a problem with PSV 8 and under falling into this grey area would it not be better if 8 seaters are taxi private hire and taxi are licenced and private hire 9 and over are psv.

Proposal 8

Agree, but what about councils s/service transport children council running bus services or running bus or taxi bus service they also not licenced, should they be?

Proposal 9

There should be no licence requirement this is a very small part of transport providing it is a club with up front membership.

Proposal 11

Agree.

Please note the national standard has to take into account many of the vehicles are older due to the account of how they are used.

Proposal 12

Why not England as well?

Proposal 13

Agree.

Proposal 14

Agree.

This about money the company that has concession has to pay to the airport this is about 25% more than normal, can be more if they ask for a standard to be applied. Airports are finding ways of making it harder for other companies to pick and drop off customers, I do not feel this is working by allowing free trade of services

Proposal 15

Something should be in place.

Proposal 16

Agree.

Proposal 17

No.

Private hires can be ordered and provide immediate service, if it is from a private hire office or if they are by a car park near where their pickup is.

Proposal 18

Agree.

Proposal 19

Agree.

Proposal 20

Agree.

Proposal 22

Do not agree .

Unless hackney = taxi

Private hire = booked cab or cab

Proposal 23

Private hire should be able to be called cab or booked cab. Minicabs are understood by the public as to what they are.

Hackneys to be called taxis.

This would build on what the public know now as which service is which.

Companies which have both could have adverts "taxis and cabs for your service"

Proposal 24

Agree.

We have added reports and letters of why this is needed and that there are too many standards if you are lucky to have an understanding council that company will have a commercial advantage over taxi or private hire companies in the next district.

Proposal 25

Agree.

Proposal 26

Agree.

This is how PSV trade works.

Proposal 27

Agree.

Sat nav booking systems are now used by many private hire companies and provides very good service if they did not you would not have companies like Adderson Lee . Where companies look at the service they provide the customer will get a better service. The control for this would be like London, outside London many councils have the same standards for Hackney & private hire, too many conditions.

Proposal 28

Agree.

We think it is important if you call a taxi or private hire you can see which cab is which for all customers.

Proposal 29

The national licence officers association via the council would not wish to lose control over any part of the taxi and private hire taxi business.

If a standard was the same across England why would you need to apply for a private hire licence which you are not working in, as a lot of school transport in our area (Essex) is done by private hire trade, if we have the same standard we work on the same level. This is not the case, we refer to attachments. The problem will be if councils will be allowed to change private hire standards.

Proposal 30

Yes.

Taxis that are in public view have to take passengers first in line on rank.

Private hire companies can control the business with booking systems you do not have to take bookings they can choose if they provide services or not. Taxis cannot do this.

Proposal 33

The way this is added looks like it is for Wales only A Technical Advisory Panel.

Proposal 34

Agree.

Proposal 35

Not sure how this could apply if you are in a city you can apply a higher standard than you could in a rural district.

Proposal 36

No.

However all drivers have to have CRB's could this not be part of the national standard.

I cannot see what other conditions would be needed.

Proposal 37

Agree.

Should be local arrangement.

Proposal 38

Agree.

Proposal 39

Agree.

There are some districts that have very big areas or have ie airport or port in their area or one would have a small town zoning would be useful in some council areas.

Proposal 40

No.

Proposal 41

Agree.

Proposal 42

Agree.

Cannot be managed.

Proposal 43

Agree.

Proposal 44

No.

Proposal 45

Taxis standard should be controlled by councils.

Private Hire standard should be controlled by the companies.

Fit and proper person can be set.

Medical driver should be fit.

All taxis and private hire should have insurance.

Safety training should only apply to taxis.

Proposal 46

Agree.

Proposal 47

Primary legislation.

Proposal 48

Agree.

Also hackney taxi companies should also have a licence.

Proposal 49

They do the same job as private hire.

Customers who have problems should be able to have the driver checked up on.

Proposal 50

Agree.

Proposal 51

Yes.

Proposal 52

Agree.

Proposal 53

Yes.

Proposal 54

Yes.

Proposal 55

The problem is space in towns / cities like York is a very good point it is an old city, very little rank space, I found it much more easy to walk round than drive however because of that you only have room for so many taxis. There are now fewer towns which limit numbers than before 1985.

Proposal 56

The short answer is yes and should be reviewed.

Proposal 57

There is a real problem the wheelchair taxis which are approved are only any good for the standard wheelchair, 40% of our wheelchair customers need bigger wheelchair taxis or private hires, some councils including ours will not licence or re-licence bigger wheelchair vehicles, this is going to be a real problem for our business in the future.

see pictures www.alpine-taxis.com

Proposal 58

Yes.

Proposal 59

Allow licencing of a wider range of taxi and private hire to meet the needs. 20% of our business is wheelchair work, we find licencing has stopped us expanding our business in this area and if we cannot get agreement with our council we will have to pull out of this service which we are very unhappy about. Please see attachments.

Proposal 60

We do not believe that quotas work, our past experience with licencing authorities that have brought in quotas for wheelchairs entrances have taken up the licences merely so that they can use ranks and be hailed in the street. It has not increased the availability of service to the people who need the service, trying to regulate how a service should be operated and covered does not lead to the results that the legislators would like, many years ago there was an experiment done in Oxford Street with a wheelchair passenger trying to hail a taxi, and even in a fully wheelchair licenced fleet of 18000 taxis it still took 20 minutes for somebody to pick them up. The situation in areas where they have quota systems has seen the increase in wheelchair accessible vehicles but not in the service provided, this company has specialised in the service over the last 15 years and has in in house training programme and it has developed a high standard of service which we are at present cannot deal with the demand that is coming to us. We would suggest that there has to be incentives put forward working with companies that can implement services that this type of client would require, the training introduced for disability awareness is a great idea but in practice the drivers take the courses because they have to then forget the training because they are merely going to avoid that type of work because of the level of commitment that it requires.

Proposal 61

The training introduced for disability awareness is a great idea but in practice the drivers take the courses because they have to then forget the training because they are merely going to avoid that type of work because of the level of commitment that it requires. We feel that there has got to be a different approach and targeting companies add incentives accordingly may be a different approach, we believe in targeting the groups that are willing to make the investment to provide this rewarding service.

Proposal 62

We would agree in our case in the left hand corner of the screen there is the vehicle licence number and who to contact to complain.

Proposal 63

We know that this is a considerable problem throughout the country, we do not feel legislation is the right way to try and regulate it, I was involved in a couple of pilot schemes where we tried to change the hearts and minds of the drivers about getting involved in this business. The standard of service that the disabled require is far higher than even the training that has been put in place now, just having vehicles in place is not the simple answer, the disabled feel very vulnerable and they need to establish trust with the driver and company that their transportation is going to be reliable and safe, sadly this is not being delivered by the taxi trade at present it also seems unbelievable that we as a company are providing services and understanding this group are being discriminated by our own licencing council. The problems in this area are immense and no simple solution is available.

Proposal 64

As far as I know licencing officers already have this power, and have used it in conjunction with the police and other authorities, I am not sure it is in the interest that these be extended, many licence officers will take the number of a vehicle if they are spotted doing something that they should not be and pull them into the office at a later date. From a safety point of view I do not feel that licencing officers should attempt to pull over taxis if they are travelling on the public highway.

Proposal 65

Touting has always been a difficult issue in London and other metropolitan areas less so in districts, however a new form of touting which equally is very difficult to enforce against where people are setting up helping services which includes transport to and from the shops, doctors, due to the fact that licencing has got more expensive and the time period to get approved has increased in many areas this un-licenced area is growing, in our area which is only a district with all the requirements the council have made it costs around £500 in licence fees, medicals etc and on average now it takes 9 months for a driver to pass a hackney carriage test in our district. It is now more expensive here than in the neighbouring borough which has a lot more to offer potential drivers, clearly the inconsistencies that appear in our area but are also applying to many other areas this touting does appear to grow where there is over regulation in areas, this also then creates effectively supplying the service that the demand requires of the taxi travelling public which then leads to un-licenced taxi opportunities.

Proposal 66

I do not believe impounding vehicles by licencing officers, I believe that this would be too expensive and would

damage any working relationship that the trade and licencing authority has, it is far better if there is a problem that they work with the police in order that they target an area where there appears to be a problem, this in the past has had a tremendous effect and is normally reported nationally in the trade press.

Proposal 67

Fixed penalty schemes, our authority has got their licencing officers the approval to issue fixed penalties for minor offences, for example smoking in the taxi, while they have got the power it has not been used extensively because this would damage the relationship between the taxi trade and the licencing authorities.

Proposal 68

As far as I know the enforcement officers already have powers to take action about licenced operators operating in their area, the 2 incidences that I had was a driver late at night taking a passenger home who had overslept on a train, and taking him to another area had been spotted with his roof light on because he forgot to turn it off, I do feel that if the enforcement officer has got a problem with a vehicle from another area maybe they should liase with the other enforcement officer from where the vehicle had come from.

Proposal 69

I am not an advocate of enforcement powers that extend to suspension and revocations of licences, I would rather see licencing officers contacting licencing officers of the area that the vehicle has come from.

Proposal 70

I understand that this is in line with what happens now.

Proposal 71

I understand that this is in line with what happens now.

Proposal 72

We have felt for some time that there should be some sort of body that we should be able to go to who specialise in transport matters, in the past the issues are extremely complicated, I am a little sceptical that the law reform will make this any easier, I suspect that when it goes through as an act of parliament the amendments that will be added will return the taxi/private hire trade back to a very challenging time. While I have been involved with magistrate courts representing colleagues we have been lucky in winning, but on hearing outcomes from other experiences and the judgements may seriously question whether this is the right way to go. At present local councils continually use the fact that "if you do not like it go to the magistrates court", we are now experiencing the same thing and it generally shows that the working relationship between the licencing officers and the operators who wish to provide the services has broken down, it is then regarded that even if one was to win at magistrates court there would be no handing down of advice to either side on how to conduct themselves in the future, which may be helpful to future services of that area.

Proposal 73

Appeal to crown court, I have not heard of many of these cases but if a case is sufficiently important I feel that it should be heard at crown court.

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hence are doing a review, they appear to be favouring what is actually happening in London which is retaining the hackney carriage controls, these are for taxis that can be hailed in the street and legally have been deemed to be operators in their own right, also there is an issue across the country with the fact of rank space, clearly there would be more demand for this service in a city or borough than there would be in a rural district. The private hire which has been regulated has developed in London in a different way, while all company drivers and vehicles have to meet a minimum standard what has developed is effectively the market place dictating the fortunes of these companies, so much so that the trade represented organisation for London has developed competition within the industry with effectively grading their members which also is used as a guide to customers to what service they can expect. Addison Lee one of the most successful private hire organisations started in 1975 has become one of the market leaders of the capital, they can recruit private hire drivers, have them trained and out on the road within 6 weeks providing the CRB comes through, this means that they are able to move with demand for their services more quickly and are monitoring the service that they are providing constantly, drivers which do not meet the standard are quickly dispensed with. They also use the latest satnav booking systems which are extremely effective (this company has the same type of system). They have been extremely profitable even through this recession because of what they are able to deliver, the company would like to expand outside their area, which at present they are not allowed to do, what they are looking at doing is challenging these conditions so that they can operate outside their area

but under the conditions that they are operating under in London. Clearly they recognise that the licencing conditions in the home counties are not business friendly, we have proposed a similar way forward to the hackney carriage office which is also supported by the local drivers association, where private hire licencing was liberalised, this would effectively solve our problems because we could develop in the same way, we could also adopt that companies could only qualify for private hire licencing if they were based in the Rochford district, and did not have interests in neighbouring areas which would effectively put us in line with Uttlesford. Initially these proposals have been rejected because they regard private hire and hackney carriage as the same, they are clearly not, the council have to decide do they want a taxi business in their area providing a range of services to the district, or would they rather have it all controlled by companies from Southend, clearly I would assume that they would want taxi services to survive. First what needs to be done with great urgency is the liberalisation of private hire conditions, that wheelchair vehicles that can take 2 or more wheelchairs but not exceeding the capacity of 8 passengers are exempt from any form of type vehicle regulation, however, the vehicles must be shown that they are of road worthy quality and comply with MOT standards which now covers vehicles that have been converted. We also ask that hackney carriage plates could effectively be mothballed, still paying the fee but would give us the opportunity to hold our existing plates and re-introduce them when market conditions improve. I highlight one drivers predicament who has a dispute with his garage which is in the hands of the solicitors. He

commissioned this garage to change an engine, the work was not done right and the vehicle was taken back by the garage and has subsequently disappeared, leaving the driver without a vehicle to drive, because his licence is now due he has to produce a vehicle within 10 days or his licence will be revoked, he has worked in the district for 15 years and effectively is going to be put out of business. As far as I am concerned this is an example of oppressive licencing conditions. This all could be summed up very simply, licencing conditions do not provide services of any kind, it is the circuit operators and drivers that create the demand and need, when the market place is not allowed to function normally it creates anomalies as we have now.


**Limited Company Report
Financials**

 You Login - **Peter Richmond**

 Your User ID - **100008521**
05939125
ACCESS ANYONE LIMITED
Profit & Loss

Date Of Accounts	30/09/11 (%)	30/09/10 (%)	30/09/09 (%)	30/09/08 (%)	30/09/07
Weeks	52 (%)	52 (%)	52 (%)	52 (%)	52
Currency	GBP (%)	GBP (%)	GBP (%)	GBP (%)	GBP
Consolidated A/cs	N (%)	N (%)	N (%)	N (%)	N
Turnover	--	--	--	--	-
Export	--	--	--	--	-
Cost of Sales	--	--	--	--	-
Gross Profit	--	--	--	--	-
Wages & Salaries	--	--	--	--	-
Directors Emoluments	--	--	--	--	-
Operating Profit	--	--	--	--	-
Depreciation	£69,486 8.7%	£63,910 138.7%	£26,778 12.2%	£23,860 281.6%	£6,253
Audit Fees	--	--	--	--	-
Interest Payments	--	--	--	--	-
Pre Tax Profit	--	--	--	--	-
Taxation	--	--	--	--	-
Profit After Tax	--	--	--	--	-
Dividends Payable	--	--	--	--	-
Retained Profit	--	--	--	--	-

Balance Sheet

Date Of Accounts	30/09/11 (%)	30/09/10 (%)	30/09/09 (%)	30/09/08 (%)	30/09/07
Tangible Assets	£206,918 26.7%	£163,320 109.7%	£77,880 28%	£60,854 -6.3%	£64,946
Intangible Assets	0-	0-	0-	0-	0
Total Fixed Assets	£206,918 26.7%	£163,320 109.7%	£77,880 28%	£60,854 -6.3%	£64,946
Stock	£7,000 -	0-	0-	0-	0
Trade Debtors	£95,407 14.2%	£83,540 88.8%	£44,244 112.1%	£20,857 31.2%	£15,900
Cash	£17,193 59.6%	£10,775 509.4%	£1,768 -75.7%	£7,266 8.7%	£6,687
Other Debtors	0-	0-	0-	0-	0
Miscellaneous Current Assets	0-	0-	0-	0-	0
Total Current Assets	£119,600 26.8%	£94,315 105%	£46,012 63.6%	£28,123 24.5%	£22,587
Trade Creditors	£190,411 31.6%	£144,711 120.2%	£65,730 91.4%	£34,342 -1.9%	£35,010
Bank Loans & Overdrafts	0-	0-	0-	0-	0
Other Short Term Finance	0-	0-	0-	0-	0
Miscellaneous Current Liabilities	0-	0-	0-	0-	0
Total Current Liabilities	£190,411 31.6%	£144,711 120.2%	£65,730 91.4%	£34,342 -1.9%	£35,010
Bank Loans & Overdrafts and LTL	£77,297 -6.1%	£82,290 49.2%	£55,158 35.4%	£40,745 -3%	£42,010
Other Long Term Finance	0-	0-	0-	0-	0
Total Long Term Liabilities	£77,297 -6.1%	£82,290 49.2%	£55,158 35.4%	£40,745 -3%	£42,010


**Limited Company Report
Financials**
You Login - Peter Richmond
Your User ID - 100008521
04142000
24 X 7 LTD.
Profit & Loss

Date Of Accounts	31/08/10 (%)	31/08/09 (%)	31/08/08 (%)	31/01/08 (%)	31/01/07
Weeks	52 (%)	52 (%)	30 (%)	52 (%)	52
Currency	GBP (%)	GBP (%)	GBP (%)	GBP (%)	GBP
Consolidated A/cs	N (%)	N (%)	N (%)	N (%)	N
Turnover	£2,866,906 64.8%	£1,740,015 -	--	--	£978,337
Export	--	--	--	--	-
Cost of Sales	£899,915 -	£465,153 -	--	--	-
Gross Profit	£1,966,991 54.3%	£1,274,862 -	--	--	-
Wages & Salaries	--	--	--	--	-
Directors Emoluments	--	--	--	--	-
Operating Profit	£282,721 159.8%	£108,832 -	--	--	£132,296
Depreciation	£263,983 17.4%	£224,815 734.3%	£26,948 -56%	£61,284 1%	£60,672
Audit Fees	--	--	--	--	-
Interest Payments	--	--	--	--	-
Pre Tax Profit	£282,721 159.8%	£108,832 -	--	--	£132,296
Taxation	-£43,666 -236.5%	-£12,977 -	--	--	-£26,975
Profit After Tax	£239,055 149.4%	£95,855 -	--	--	£105,321
Dividends Payable	£32,518 -46.8%	£61,141 -	--	--	£57,000
Retained Profit	£206,537 495%	£34,714 -	--	--	£48,321

Balance Sheet

Date Of Accounts	31/08/10 (%)	31/08/09 (%)	31/08/08 (%)	31/01/08 (%)	31/01/07
Tangible Assets	£1,397,705 77.4%	£788,105 60.9%	£489,958 166.5%	£183,851 1%	£182,016
Intangible Assets	0 -	0 -	0 -	0 -	0
Total Fixed Assets	£1,397,705 77.4%	£788,105 60.9%	£489,958 166.5%	£183,851 1%	£182,016
Stock	0 -	0 -	0 -	0 -	0
Trade Debtors	£366,747 9.8%	£333,933 117.8%	£153,303 18.5%	£129,412 16.2%	£111,379
Cash	£266,611 853%	£27,977 -48.2%	£54,005 -	0 -100%	£61,000
Other Debtors	0 -	0 -	0 -	0 -100%	£2,715
Miscellaneous Current Assets	0 -	0 -	0 -	0 -	0
Total Current Assets	£633,358 75%	£361,910 74.6%	£207,308 60.2%	£129,412 -26.1%	£175,094
Trade Creditors	£880,914 158.4%	£340,926 80.7%	£188,707 51.2%	£124,778 999.9%	£4,490
Bank Loans & Overdrafts	0 -	0 -	0 -	0 -100%	£37,570
Other Short Term Finance	0 -	0 -	0 -	0 -100%	£57,503
Miscellaneous Current Liabilities	0 -	0 -	0 -	0 -100%	£61,623
Total Current Liabilities	£880,914 158.4%	£340,926 80.7%	£188,707 51.2%	£124,778 -22.6%	£161,186
Bank Loans & Overdrafts and LTL	£666,943 25.3%	£532,420 99.7%	£266,597 785.8%	£30,097 -72.7%	£110,383
Other Long Term Finance	0 -	0 -	0 -	0 -100%	£72,813
Total Long Term Liabilities	£666,943 25.3%	£532,420 99.7%	£266,597 785.8%	£30,097 -58.7%	£72,813

From: Nigel Appleby [REDACTED]
Sent: 10 September 2012 12:33
To: TPH
Cc: Gary Neill
Subject: Funeral Vehicle Licencing

Importance: High



Dear Sir/Madam

We wish to formally oppose the proposed changes to the licencing rules for Funeral Vehicles.

Currently, funeral vehicles are exempt and should remain so for the following reasons:

Each funeral is not dependent on a set fee and each journey is generally a one off.

Hearses usually have four seats and limousines up to a maximum of eight, but often less.

No advertising is shown on these vehicles, other than a small badge with the Company name.

These vehicles cost in excess of £70,000 each and the proposed changes will result in additional

MOT's and servicing on vehicles, plus staff costs associated with medical/CRB checks.

Social Funding from the Government to help families has not changed for many years and

all additional costs would be passed on to our client's who themselves are often struggling to settle debts.

If you require any further information, please do not hesitate to contact me on the number below.

Yours faithfully

Nigel Appleby

Operations Manager

[REDACTED]





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Public Law Team
(Taxi and Private Hire), Law Commission
Steel House,
11 Tothill Street,
London
SW1H 9LJ

Date: 10 September 2012

Our ref: EH/SJH/ Taxi

Your ref:

Dear Sirs

Re Law Commission Review – Reforming the Law of Taxi and Private Hire Services

Please see this Council's response to the above review which has been submitted to you electronically. The Council is intending to send an electronic response only.

Yours sincerely



Simon Harvey
Principal Licensing Officer

Environmental Health & Licensing
[REDACTED]

LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

CHAPTER 13 - OVERVIEW OF PROVISIONAL REFORM PROPOSALS

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. (Page 160)

BBC response to provisional proposal 1

There are two separate issues in respect of this question. The first and foremost is that in all reality, very few customers of taxi and private hire vehicles care little about the distinction between the two trades. For the most part customers (passengers) simply want to get to their destination safely, at the time that they wish to travel and as quickly as possible. So as far as the customer is concerned many will not even be aware of this distinction and some will either be unconcerned by it or if they are aware, may still be uncertain as to why there is a distinction and what the implications of this are.

The second issue predominantly affects the trade and Council's. Either the distinction must remain or there must be a switch to a single tier system where all vehicles are able to ply or take pre booked fares. To attempt to introduce a system that is some alternative hybrid of this but where a two tier system still remains in place will be confusing for all parties concerned, i.e. trade, Council's (particularly where enforcement is concerned) and also customers (passengers).

CHAPTER 14 – REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. (Page 162)

BBC response provisional proposal 2

Yes, this Council would agree with this proposal. To retain the two tier system and separate legislation between London and the rest of England and Wales makes little sense and is potentially retaining an element of confusion. Particularly where customers (passengers are concerned).

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. (Page 164)

BBC response to provisional proposal 3

This Council does not agree with this proposal. Aside from the enforcement difficulties of unlicensed limousines and 'novelty' type transport vehicles, the vast majority of the taxi and private hire trades and Council officers instantly recognise the difference between what constitutes a taxi or private hire vehicle (i.e. 8 passenger seats or less) and what constitutes a passenger transport vehicle that falls within the remit of PSV (i.e. 9 or more passenger seats). To remove this separation and distinction would potentially make enforcement and the maintenance of high driver and vehicle standards extremely difficult. It may also mean that taxi and private hire services would be subject to the same restrictions on driver hours.

Question 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? (Page 164)

BBC response Question 4

Non motorised vehicles (that by nature are likely to be more tourist or novelty orientated services) could be subject to a lesser licensing regime but one where pedicab or horse drawn carriage drivers for example would all be subject to standard CRB checks, risk assessed health and safety checks on the vehicle, animal welfare checks on the horse and regardless of type of vehicle or service, all be subject to third party road insurance and covered by adequate public liability insurance.

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. (Page 165)

BBC response to provisional proposal 5

This Council would agree with this proposal

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. (Page 166)

BBC response to provisional proposal 6

This Council would agree with this proposal which will simplify and bring the legislation up to date with current vehicle technology, requirements and use.

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. (Page 167)

BBC response to provisional proposal 7

This Council agrees that all limousines and 'novelty' vehicles of 8 passenger seats or less should be subject to a local authority licensing regime provided that the vehicle and driver(s) satisfy local driver and vehicle safety requirements. It also agrees that the Secretary of State should issue statutory guidance to Senior Traffic Commissioners about the licensing of limousines and novelty vehicles of 9 passenger seats or more.

Provisional proposal 8

The concept of "in the course of a business of carrying passengers" should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. (Page 168)

BBC response to provisional proposal 8

Yes this Council agrees with this proposal/concept and believes that provision should be made to exclude all genuine voluntary transport or transport that is being used in connection with legitimate social care and is not being used or exclusively offered or used with a view to personal gain or profit. The HMRC guidelines for what constitutes non profit transport should apply.

Question 9

How, if at all, should the regulation of taxis and private hire deal with:

(a) carpooling; and

(b) members clubs? (Page 170)

BBC response to question 9

This Council would agree that provided these vehicles and these services fell within a definition of 'they are not in the course of a business carrying passengers' and that the HMRC guidelines on what constitutes non profit making transport should also apply to these vehicles and services then they should be exempt from any taxi or private hire legislation. However the only caveat that the Council would place on this agreement is that vehicles (and therefore passengers) must be properly insured. Perhaps a special category of insurance could be considered by the Motor Insurance Board and which would be included in HMRC calculations should this cause any rise in premium.

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. (Page 171)

BBC response to provisional proposal 10

This Council agrees that the Secretary of State and Welsh Ministers should be given flexible powers to allow them to make exclusions from the taxi and private hire licensing regimes.

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. (Page 172)

BBC response to provisional proposal 11

This Council agrees that Wedding and Funeral cars should not be excluded from private hire licensing requirements through primary legislation, particularly in the case of wedding cars which current legislation says are exempt when “being used in connection with a wedding”. The phrase “in connection” with a wedding could mean different literal interpretations as to what “in connection” means, i.e. is a vehicle carrying passengers on a stag or hen party being used “in connection” with the actual wedding itself? Driver and vehicle safety standards should therefore apply in all circumstances when a vehicle is hired for profit. Funeral cars are far less likely to be used in any other circumstances than in connection with the funeral itself primarily because of their colour, style or the association of their day to day use, so an argument may be put forward as to why these should remain exempt. However passengers carried for profit in any circumstances should expect to be carried in safety and that the driver and vehicle both be subject to safety standards and requirements.

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers’ exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse? (Page 174)

BBC response to question 12

This Council would be opposed to the reintroduction of the private hire vehicle contract exemption (as used to be permissible under S75 of the Local Government (Miscellaneous Provisions) Act 1976) and believes this would simply open up this whole area to litigation and dispute of the kind that existed before the exemption was removed by S53 of the Road Safety Act 2006. In many instances this ‘exemption’ was simply used as a loophole in the law by operators and vehicle owners and cost time and money for all parties concerned in proving or disproving the right to such an exemption. This would be time and money that could not be recovered by Councils in light of the recent Westminster stated case in respect of enforcement action against unlicensed sex shops cannot be recovered from the fees of license holders.

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to “streets”. (Page 175)

BBC response to provisional proposal 13

This Council agrees that regulation should apply to beyond the lawful meaning of street and should apply to any area of private land. Safety should not just apply to 'public' areas. It is accepted that some private land owners would wish to place additional conditions on the use of that land, e.g. airport or railway authorities for example.

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? (Page 177)

BBC Response to question 14

This Council agrees that there may be a case for making special provision in respect of taxi and private hire vehicles at airports in terms of service, safety and security. However the Council also expresses concern that in making such a special provision customer choice and competition amongst service providers does not become restricted. If it were, the only outcome that would be likely is high fares for customers.

Provisional proposal 15

The defining feature of taxis, the concept of "plying for hire", should be placed on a statutory footing and include:

(a) references to ranking and hailing;

(b) a non-exhaustive list of factors indicating plying for hire; and

(c) appropriate accommodation of the legitimate activities of private hire vehicles. (Page 181)

BBC response to provisional proposal 15

This Council agrees with the proposal to define "plying for hire" in the legislation. To do so is likely to bring an end almost endless litigation through the Courts for all parties concerned as attempts are made to define this term through stated case law.

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. (Page 181)

BBC response to provisional proposal 16

This Council agrees that the critical factor in distinguishing a vehicle plying for hire as opposed to a vehicle undertaking a pre-booked job is the method that the vehicle is engaged rather than how quickly the vehicle can be pre-booked. The crucial element is that the vehicle must have been pre-booked regardless of the technology that may have been employed to pre-book that vehicle.

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”? (Page 182)

BBC response to question 17

This Council believes it would only be an advantage if the term “arrangements made in a public place” was clearly defined in legislation. Otherwise it could foresee problems in determining through the Courts as to what constitutes a “public place”, particularly in respect of modern technology such as the internet or smart phone applications where the arrangement for private hire booking is almost immediate and can take place almost anywhere including in “a public place”.

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained. (Page 182)

BBC response to provisional proposal 18

This Council agrees the concept of compellability should be retained in terms of taxis. However it would also wish to see a caveat of ‘reasonable refusal’ retained particularly in circumstances where for example the customer was verbally or physically aggressive towards the driver so that they feared for their personal safety of themselves or their property or where the customer did not have the means to pay for the journey.

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. (Page 183)

BBC response to provisional proposal 19

This Council agrees with this proposal but also accepts the need for flexibility particularly in terms of technology and pre-booking which is why the current legislation is now archaic and needs urgent reform and update.

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved. (Page 184)

BBC response to provisional proposal 20

This Council agrees that particularly in difficult economic times it is potentially extremely restrictive and punitive that licensed taxis and private hire vehicles can only be used by licensed drivers (i.e. in reference to stated cases *Yates v Gates* 1970 and *Benson v Boyce* 1997). This can be a difficult economic restriction and burden on partners and family members of licensed drivers who may only have one car to use both professionally and privately. Any change to legislation should define what is private and what is personal use to aid licensing authorities and ultimately Courts if the definition is challenged. The DfT guidance on private hire vehicle licensing for example would be a good starting point for consistency and statutory regard.

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements. (Page 185)

BBC response to provisional proposal 21

This Council supports the proposal for the Secretary of State or Welsh Ministers to have powers to issue statutory guidance to licensing authorities and believes that this will assist all parties concerned when making licensing decisions in terms of what constitutes a taxi service or private hire service including the Courts.

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned. (Page 185)

BBC response to provisional proposal 22

This Council agrees that the legislation should refer only to taxis and private hire vehicles for clarity. The term hackney carriage is archaic and many customers (passengers) would be unsure as to what a hackney carriage is but would know instantly what a taxi is.

Question 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion? (Page 186)

BBC response to question 23

This Council believes that many customers do not know or do not care about the difference between what constitutes a taxi service and what constitutes a private hire service particularly late at night. However it would oppose any advertising of private hire services that did not strongly emphasise the pre-booking requirement of that service. Because of the confusion that already exists in many customers minds it also believes that any use of the word 'taxi' in such advertising will simply lead to further confusion or misunderstanding. The use of the word 'cab' could be used as a generic use of advertising a pre-booked service but as a preference the Council would wish to see either taxi or cab not being used in relation to solely advertising private hire services.

CHAPTER 15 – A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements. (Page 188)

BBC response to provisional proposal 24

This Council agrees that both taxis and private hire vehicles should be subject to minimum national safety requirements. However it also believes that licensing authorities should be able to retain a certain amount of local discretion as to any additional safety standards or requirements that may be necessary because it is in the best position to know and listen to what standards its residents, visitors and local taxi and private hire trades might require.

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards. (Page 189)

BBC response to provisional proposal 25

This Council agrees that any national safety standards applied to taxi services should be minimum requirements only. It also believes that the Council is in the best position to know and listen to what additional standards that its residents, visitors and taxi and private hire services might require in terms of additional wheelchair accessibility for example, local knowledge test requirements, local customer service requirements or indeed civic association through signage or advertising on the vehicle.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. (Page 189)

BBC response to provisional proposal 26

This Council agrees with the principle of setting minimum mandatory safety standards for private hire services. It does not agree however that licensing authorities should not have powers to set any additional safety requirements if local conditions require it. Customer choice and service are extremely important and must be encouraged by all means necessary but safety and public protection in terms of private hire drivers, vehicles and operators should be the paramount reason for a regulatory regime not a by product of it.

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers. (Page 190)

BBC response to provisional proposal 27

The majority of Councils grant a combined (dual) taxi and private hire driver's license (badge) to applicants. This offers applicants choice and saves them money by not requiring any additional license should they decide to change from one trade to another (and many do decide to do this in the course of a career).

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? (Page 190)

BBC response to question 28

It would be extremely difficult for a licensing authority to enforce illegal plying for hire by private hire vehicles without the ability to retain the provision for local signage and advertising of private hire vehicles which clearly defines that the vehicle must be pre-booked for example. Therefore local discretion on safety and relevant local conditions should be retained,

Question 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? (Page 191)

BBC response to question 29

This Council believes that mandatory minimum common national safety standards should be applied to both taxis and private hire vehicles which would provide a level of safety for customers regardless of where they hailed a taxi or pre-booked a private hire service. This would give the trade and customer's confidence that safety was assured and that an 'even playing field' applied to both trades nationally. This may even help to deter practices of applying for taxi vehicle licenses which may for a variety of reasons be cheaper in one local authority area which are then used almost exclusively 'cross border' in neighbouring local authority areas. The Law Commission will be aware of parts of the country where this practice has become widespread and is causing huge resentment amongst the taxi trades and almost impossible enforcement difficulties for some local licensing authorities.

To a large degree safety standards such as introducing a nationally agreed taxi and private hire vehicle inspection standard such as the LACORS/Public Authority Transport Network/Freight Transport Association guide would give the travelling public, the taxi and private hire trades and licensing authorities confidence that standards were being fairly applied across the board. Licensing Authorities should still be able to retain local discretion in terms of vehicle type for example because they will know what best suits their own residents and visitor needs and are able to have that local communication and dialogue with groups such as access groups for example and also their own taxi and private hire trades.

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (Page 192)

BBC response to question 30

This Council does not believe that driver safety should be any different for taxi or private hire drivers. Both deserve the flexibility of being able to install or rely on such safety measures that are lawful and proportionate to the threat that taxi and private hire drivers regularly face particularly working late at night from robbery or violence much of it alcohol or drug fuelled or related. Safety measures should be applied in consultation with local licensing authorities particularly where there may be data protection implications with in car CCTV cameras for example but without the taxi and private hire trades to take passengers home the problems in our town centre and city areas that arise from the late night economy are likely to be far worse and drivers deserve respect and protection for the often very difficult job that they do over long working hours.

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety. (Page 192)

BBC response to provisional proposal 31

This Council agrees with the proposals but would also wish to retain a flexibility to set additional standards if local need and consultation with the taxi and private hire trades and other interested parties required it.

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. (Page 193)

BBC response to provisional proposal 32

This Council agrees with this proposal.

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? (Page 193)

BBC response to question 33

This Council believes that there has already been ground breaking and innovative work done in this area through the work done to promote national inspection standards for taxi and private hire vehicles by the LACORS/Public Authority Transport Network/Freight Transport Association guide and it would make sense to build on that work by including the requirement of the same or similar technical panel to also advise on national safety standards.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. (Page 193)

BBC response to provisional proposal 34

This Council believes that licensing authorities should retain the power to set standards locally for taxis and private hire vehicles where it is reasonable and proportionate to do so and where the overriding reason for doing so is passenger and public safety. Conditions should not be set unreasonably, nor should they be an unfair barrier to trade. However it must be remembered and understood by all parties concerned in this consultation that the reason for the introduction of legislation in the first place, regardless of the fact that for most Council's this legislation dates back to 1847 or 1976, was the safety, comfort and protection of fare paying passengers and the wider public at large such as other road users.

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? (Page 194)

BBC response to question 35

This Council does not believe that there should be statutory limits on a licensing authority's ability to set local conditions. These conditions should never be set lower than any nationally set minimum standard but local discretion and decision making should be retained by elected Members as part of the Localism agenda and local residents, interested parties such as access groups and the taxi and private hire trades themselves should retain the flexibility of being able to influence and promote decision making on local needs and requirements for transport services of which taxi and private hire play a vital and integral role.

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? (Page 194)

BBC response to question 36

This Council believes that licensing authorities should retain the flexibility of being able to attach appropriate individual conditions on taxi and private hire drivers and operators. As previously advised the majority of Council's including our own grant a combined (dual) taxi and private hire driver's license. Aside from plying for hire or waiting in the street there is little difference to the work that they carry out, much of it on pre-booked work such as school transport for example. It is therefore anomalous to this Council that the Law Commission Review should suggest that appropriate conditions could be attached to a taxi driver's license under any new legislation but could not be attached to a private hire driver's licence which would only be subject national requirements. This anomaly is further exacerbated by the proposal that should an applicant for a private hire drivers license fail to satisfy the national licensing requirements the licensing authority would have no option other than to refuse their license application. This will simply lead to a greater number of appeals being pursued through the Courts by applicants, lead to possible unnecessary delay for the applicant in being able to work (this is especially pertinent at a time of high unemployment) and increased costs for licensing authority's in having to defend such actions and which under current circumstances is a cost that would have to be borne by the tax payer rather than the taxi or private hire trades (i.e. District Auditors decision over Guildford Councils fees and charges 2010 and Westminster City Council v Licensed Sex Shop proprietors 2012). If the licensing authority retains flexibility however to be able to attach appropriate and proportionate conditions to a grant of a private hire drivers license that it knows by experience will resolve any concerns that may have arisen from the applicants application such as granting a provisional or 'trial' license for example, it would mean that the applicant is able to work and the Council tax payer does not have to pick up the bill for the licensing authority to defend what may have been an unnecessary appeal to the Magistrates Court or beyond.

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? (Page 195)

BBC response to question 37

Brentwood Borough Council is already entering into partnership arrangements for our regulatory function such as Licensing and Environmental Health with a neighbouring local authority Braintree District Council and Essex County Council Trading Standards to share best practice and pool limited administration, enforcement and management resources. We believe that this offers better value services for residents, businesses and license holders and also enables us to target limited resources. Within Essex there are also various officer forums and working groups that have been sharing best practice for many years now, for example our licensing policies on alcohol and entertainment and gambling are in the main generic throughout Essex which makes it simpler for businesses who may have to deal with a number of local authorities when applying for licenses. This Council therefore welcomes the Law Commission acknowledgement of such arrangements as good practice. However it does not believe such an arrangement to share resources should be statutory or compulsory because of geographic and demographic reasons and differences between authorities

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. (Page 196)

BBC response to provisional proposal 38

This Council would prefer to have flexibility to enter into such an arrangement voluntarily and where it suits local needs and services to do so rather than any statutory or compulsory requirement to do so. As previously advised in respect of our response to question 37, there are considerable geographic and demographic differences between authorities and also considerable differences in the way that the taxi and private hire trades function as businesses throughout different Essex local authorities. For an example in Brentwood our licensed vehicles are predominantly taxis whereas in a nearby authority Colchester they are predominantly private hire because of the size and demography of their customer base and factors such as the size of their night time economy that services that customer base.

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. (Page 196)

BBC response to provisional proposal 39

This Council does not have any taxi zones in its area but would agree with the proposal and believes that on the whole taxi zones limit customer choice, limit the efficiency of local taxi services and businesses and potentially results in higher fares for customers.

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? (Page 197)

BBC response to question 40

This Council believes that on the face of it such a proposal could sound like a good idea. However without some sort of very clear identification of such a taxi such as it being a completely different colour to the rest of the taxi fleet or had a different kind of roof light or bodywork advertising for example, it would be extremely difficult to enforce the license provision that the vehicle would only be allowed to work peak times. Such a requirement that the vehicle must be an entirely different colour to the rest of the taxi fleet would be an additional expense for the license holder and therefore would be extremely unpopular with the taxi trade as whole. Peak provision only taxis also has considerable implications for available taxi rank space at railway stations for example and this authority already has considerable difficulties in accommodating enough taxi rank space at peak demand periods. County Council approval, consultation and advertising traffic orders for each new taxi rank and its signage etc costs in the region of two and half thousand pounds. This would have to be a cost borne by the rest of the taxi trade and it is unlikely that they would wish to do so, particularly as those ranks would be little used beyond peak period times.

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. (Page 198)

BBC response to provisional proposal 41

This Council believes that on the face of it this sounds a sensible proposal. However in practice what is likely to happen is that private hire operators would seek to license their drivers and vehicles in areas where they believed private hire driver and vehicle fees were a lot lower than their home authority fees. There can be a considerable difference in fees for each local authority area but there is also differences as to the numbers of administrative and enforcement staff each authority is resourced with and also how much enforcement is undertaken. There are also differences to local authority overhead costs and whether or not each authority seeks to recoup all of the costs that it reasonably is allowed to do through its license fees and charges or if the Council tax payer picks up a disproportionate amount of the costs of running the taxi and private hire licensing service. Therefore unless there is a proposal to set a realistic national fee for drivers and vehicles that is able to include not only driver enforcement costs but also the costs of local authority enforcement against drivers and vehicles from outside of their area it is not going to prevent the kind of large scale cross border problems and disputes that presently exist.

Provisional proposal 42

We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs. (Page 199)

BBC response to provisional proposal 42

This Council agrees with this proposal and believes that to require a “return to area” for private hire vehicles after they have dropped off is inefficient for their businesses and for their customers and is making unnecessary journeys back to their base in an empty vehicle which is environmentally damaging. However the Council would also urge that universal enforcement powers are granted to authorised officers nationally in order that any problems with illegal plying for hire by private hire vehicles can be tackled in the area that they are waiting in for a further pre-booked job to be dispatched to them by their operator.

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares. (Page 200)

BBC response to provisional proposal 43

This Council agrees that licensing authorities should retain the ability to set and regulate maximum taxi fares (tariffs) because of the uniqueness of the taxi vehicles circumstances i.e. it can be hired or hailed from the rank or on the street. Often such hiring's can be spur of the moment or made through the necessity of that moment and customers (passengers) need to be assured that they will not be overcharged as a result. In terms of private hire bookings there is usually premeditation involved in the process e.g. a journey to the airport to go on holiday and therefore the customer is able to shop around for the best price and best service. It is therefore desirable to maintain the status quo as it is in regards to both taxi and private hire fares.

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (Page 200)

This Council believes that a fare should only be charged higher than the metered fare for pre-booked journeys with the express knowledge and agreement of the customer. It also believes that it is good practice that even in such circumstances the meter is operated by the driver so that the customer is aware of what the fare should have been without this agreement in place.

CHAPTER 16 – REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING

Question 45

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 203)

BBC response to question 45

This Council believes that the requirements for what constitutes a “fit and proper person” be set out in primary legislation. There should then be no room for error or interpretation on either side. It also believes that the requirement should go far further than just requiring a satisfactory criminal record check, DVLA check and medical fitness examination and should also include NVQ safety and equality skills training such as how to carry wheelchair passengers safely, customer service skills and driving skills through the Drivers Standards Agency. Local topographical knowledge tests which include a requirement to understand basic oral and written English, basic mathematics (i.e. in terms of giving correct change to customers), highway code and knowledge of license conditions and differences between what makes a vehicle a taxi and what makes it a private hire vehicle. All of these elements would help to professionalise the taxi and private hire trades and make these professions more of a chosen career path.

Provisional proposal 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. (Page 204)

BBC response to provisional proposal 46

This Council does not agree with this proposal and believes that there should be an element of requiring the vehicle proprietor to be a fit and proper person also. For example it may not be desirable for a person convicted of drugs or theft offences having direct control of such a vehicle. It also does not agree with the statement made in the Law Commissions consultation document on pages 203 - 204 that a licensing authority cannot take into account the character of an applicant for a vehicle license. James Button (Button on Taxis 3rd edition 2009) takes the view that general discretion of licensing authorities in issuing taxi and private hire licenses allows the proprietors conduct to be taken into account and stated case Norwich City Council v Thurtle and Watcham 1981 also supports that view.

Question 47

Should national vehicle safety standards be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 205)

BBC response to question 47

This Council believes that national vehicle safety standards should be set out in primary legislation but all other considerations such as colour of vehicle for example should be left to the flexibility of local decision making in accordance with the localism agenda. Requirements such as the frequency and content of a vehicle inspection should be in accordance with the advice of a technical panel. For example, the LACORS/Public Authority Transport Network/Freight Transport Association guide to taxi and private hire vehicle testing is already in place to enable this to be adopted nationally as best practice.

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. (Page 207)

BBC response to proposal 48

This Council agrees with this proposal that private hire operator licensing should remain mandatory in respect of private hire drivers and vehicles. The experience of what happened in Scotland where it became necessary to introduce private hire operator licensing is evidence enough that mandatory operator licensing should not be removed from legislation. It further suggests that given the Scottish experience and because operators and their dispatchers are in such a position of trust that they should be subject to a minimum standard CRB check as part of their license requirements in terms of the operator and part of their employment terms in respect of the dispatchers. This Council also believes that it is vital that the flaw in the current legislation (Section 70(1) of the Local Government (Miscellaneous Provisions) Act 1976) that does not make it possible for Council's to recover enforcement costs in connection with complaints against operators is amended as matter of urgency or that the flaw is not repeated in any replacement legislation. It is unreasonable and unfathomable that the Council tax payer should be expected to pick up such costs from the Council's general funds.

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? (Page 208)

BBC response to question 49

This Council believes that operator licensing should be extended to cover taxi only radio circuits where these are operated as companies/businesses and where there is more than one taxi vehicle involved in carrying out bookings made. Customers should have the same rights of protection that licensing private hire operators gives them and it is not unreasonable to expect that taxi radio circuit operators should be obliged to keep the same records of bookings etc that a private hire operator has to

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. (Page 209)

BBC response to provisional proposal 50

This Council agrees with this proposal that the law should not be extended to include intermediaries and that the current situation where the licensed operator is responsible for all booking made is adequate. However if the law is to remain adequate in this area in terms of enforcement, this Council also believes that it is vital that the flaw in the current legislation (Section 70(1) of the Local Government (Miscellaneous Provisions) Act 1976) that does not make it possible for Council's to recover enforcement costs in connection with complaints against operators is amended as matter of urgency or that the flaw is not repeated in any replacement legislation. It is unreasonable and unfathomable that the Council tax payer should be expected to pick up such costs from the Council's general funds.

Question 51

Should “fit and proper” criteria in respect of operators be retained? (Page 210)

BBC response to question 51

This Council believes that this requirement should remain given the position of great trust that operators are in and given the great deal of personal information they may get to know about their customers, e.g. if there house is unoccupied while they are on holiday for example. It further suggests that because operators and their dispatchers are in such a position of trust that they should be subject to a minimum standard CRB check as part of their license requirements in terms of the operator and part of their employment terms in respect of the dispatchers.

Provisional proposal 52

Operators should be expressly permitted to sub-contract services. (Page 210)

BBC response to provisional proposal 52

This Council believes that operators should be able to sub contract to other licensed operators within their area and that the original operator who took the booking would remain liable to the passenger for this contract and ultimately liable and responsible for ensuring the booking is fulfilled.

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? (Page 210)

BBC response to question 53

It is reasonable in terms of customer service that a record of the booking (and therefore the contract agreed to by the taxi driver) should be kept in terms of name and address of customer where the journey was from and to and what date and time it was undertaken and what fare was charged.

CHAPTER 17 – REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers. (Page 213)

BBC response to provisional proposal 54

This Council is unregulated and agrees with the proposal made. On the whole regulation of numbers tends to work against the customer in terms of competition and fare prices and also leads to the 'sale' of plates and an artificial 'market' for taxi licenses which can change hands both legally and illegally for substantial sums of money. Regulation could be achieved through national standards of quality control for taxis rather than quantity control.

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? (Page 213)

BBC response to question 55

This Council believes that the most likely problems to arise is the lack of available taxi rank space in many towns and cities and a large increase in taxi numbers could for many places lead to congestion and environmental exhaust pollution in town centre areas. In some local authority areas regulation of numbers has also enabled them to have a more professional and permanent taxi trade and enabled quality controls over vehicles and liveries for example.

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed? (Page 215)

BBC response to question 56

This Council believes that transitional measures should be put in place to stagger the removal of quantity restrictions. This would help ensure that problems such as lack of taxi rank space available, traffic congestion and traffic pollution would not happen immediately and time and thought could be given over to how to overcome these problems working with all stakeholders concerned, e.g. the taxi trade, local businesses, Councils, highway authority and passengers (taxi customers).

CHAPTER 18 – TAXI AND PRIVATE HIRE REFORM AND EQUALITY

Question 57

Should there be a separate licence category for wheelchair accessible vehicles? This could involve:

(1) a duty on the licensee to give priority to disabled passengers; and

(2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. (Page 217)

BBC response to question 57

- (1) This Council believes that unfortunately it would be extremely difficult to absolutely enforce a duty on a licensee to give priority to disabled passengers.
- (2) This Council believes that Councils should however have duty to ensure that a percentage of its fleet per population size is given over to the provision of wheelchair accessible vehicles while at the same time understanding through experience that not all disabled passengers wish to travel in a wheelchair accessible vehicle many finding it difficult get in and out of much larger and higher vehicles.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? (Page 217)

BBC response to question 58

This Council believes that on the face of it this sounds like a good proposal. However the reality of a Council's fee setting and fee recovery ability, particularly since the District Auditors determination about recoverable and non recoverable fees in his decision in the complaint made against Guildford Borough Council in 2010, is that if all license holders took up the incentive of a lower license fee the Council would lose money on the grant of those vehicle licenses which would have to be picked up by the Council tax payer out of the Council's general fund. Even if a much smaller number took up such an incentive the Council tax payer would still have to pick up the bill for such an incentive because the cost of subsidising the grant of these licenses could not be borne by the rest of the trade that did not license wheelchair accessible vehicles and it is almost guaranteed that a Council who did do this post Guildford would face a challenge against its fees from within its taxi trade.

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? (Page 217)

BBC response to question 59

This Council would prefer to see more general tax incentives such as zero VAT for example for those proprietors that wished to purchase a wheelchair accessible vehicle to provide wheelchair accessible services but would have to provide evidence (through booking records for example that could be randomly checked by licensing authorities for accuracy) that they were undertaking wheelchair accessible or disabled passenger work in order to justify the zero VAT subsidy. It believes however that in any case a mixed fleet of both wheelchair accessible and non wheelchair accessible vehicles should be available to meet the needs and requirements of all disabled and able bodied passengers as stated in the response to question 57 above. Provision such as cheaper bank loans and mentoring advice for businesses wishing to exclusively enter into the transport market to provide wheelchair accessible and/or accessible vehicles for disabled customers may also be a way forward to incentivise this proposal. .

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. (Page 218)

BBC response to provisional proposal 60

This Council agrees with this proposal while recognising the need for wheelchair accessible vehicles and accessible vehicles to be readily available to meet the needs of all its residents and visitors.

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. (Page 219)

BBC response to provisional proposal 61

This Council agrees with this proposal not only in terms of the passenger's requirements and needs, but also in terms of the driver's general health and safety so that for example they can learn how to lift or support a disabled passenger correctly without hurting themselves or the passenger.

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. (Page 219)

BBC response to proposal 62

This Council agrees with this proposal and agrees with the Law Commissions view outlined in paragraph 18.17 of their consultation document.

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? (Page 220)

BBC response to question 63

This Council believes that national legislation or guidelines should be in place so that where evidence of such discrimination can be reasonably evidenced, drivers should face a sanction of suspension of license in the first instance and a revocation for any second instance. Such sanctions may have a deterrent effect. I

CHAPTER 19 – REFORMING ENFORCEMENT

Question 64

Should authorised licensing officers have the power to stop licensed vehicles? (Page 222)

BBC response to question 64

This Council believes that authorised officers should be given the power to stop licensed vehicles although this should only be done with reasonable cause to do so and on a proportionate and safe basis, particularly where the vehicle may be carrying passengers. In terms of any powers to stop suspected unlicensed vehicles it would wish to see these remain with Police Officers or VOSA officers with local authority licensing officers used in support of joint partnership operations against unlicensed vehicles.

Question 65

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”. (Page 223)

BBC response to question 65

This Council has no particular experience of this as a problem at present although recognises that many Councils unfortunately do. In answer to the question posed however it is a matter of targeting limited resources where problems exist along with partner agencies such as the Police and VOSA and there should be more use of joint local authority enforcement for operations against touting. A national authorisation allowing an authorised licensing officer to work and use their powers anywhere in the country under legislation would go a long way to assist such enforcement operations and arrangements.

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? (Page 223)

BBC response to question 66

This Council believes that on the face it such a power would be a positive step forward in enforcing against unlicensed vehicles. However it also believes there would be practical problems in doing so. Licensing officers have no powers to order a driver to leave their vehicle and even if this practicality is overcome, many local authorities would have no safe place of storage for these vehicles. This would mean that third party storage would have to be found and hired for this purpose by the local authority. Bearing in mind the effect of the appeal against Westminster City Council this year by licensed sex shop owners for recovery of enforcement costs against Westminster for enforcement actions taken (and previously included in the general license fee) by the Council against unlicensed sex shops, storage of impounded vehicles would be another cost that would have to be borne by the Council tax payers not by the taxi and private hire businesses the Council was also looking to protect when taking this action.

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how? (Page 225)

BBC response to question 67

This Council does not believe that the use of fixed penalty schemes would necessarily reduce the number of cases reaching the Court. The likely effect of introducing such a scheme is that there would be an increase in cases where drivers appeal the imposition of the fixed penalty. While on the face of it such a scheme sounds like a good idea and is consistent with enforcement of other professional motoring requirements e.g. PSV licensing, this Council would prefer such misdemeanours committed by licensed taxi and private hire vehicles to be considered by elected Members at licensing panel or sub committee hearings. This would mean that a neutral third party was considering the misdemeanour rather than complaints of bias or subjectivity being laid at the licensing officer's door.

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. (Page 225)

BBC response to provisional proposal 68

This Council supports this proposal which should be included in any changes to existing legislation or any new legislation to be introduced, particularly if such changes mean that private hire operator, driver and vehicle licenses no longer need to all be held with the same authority. In this circumstance it is essential that licensing enforcement officers should have the powers to enforce against vehicles drivers and operators licensed in other licensing areas. Otherwise cross border issues and illegal plying for hire will continue to be a growing problem.

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? (Page 226)

BBC response to question 69

This Council believes that an adoption of formal procedures between licensing authorities on how both authorities will deal with such complaints detailing minimum and maximum sanctions that might be taken in response to a complaint received from one licensing authority about the actions of a vehicle licensed by another authority such as illegal plying for hire for example is a reasonable middle way forward between informal co-operation between authorities and suspension or revocation of licenses by an authority that did not issue that license which is likely to be problematical and controversial to achieve. The cost of who pays for such enforcement or how it is funded is an essential question in respect of how successful such arrangements might be. For example currently Councils cannot recover the cost of enforcement against their own drivers and operators let alone the cost of enforcement actions taken against drivers, vehicles or operators licensed by a neighbouring licensing authority. This is an important matter and a potential stumbling block to such formal or informal arrangements and must be considered and addressed in any review of current taxi and private hire licensing laws as a matter of urgency.

CHAPTER 20 – REFORM OF HEARINGS AND APPEALS

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. (Page 230)

BBC response to provisional proposal 70

This Council supports this proposal. In terms of wider policy (for example how the Council might consider applications from persons with a criminal record) are subject to challenge by way of judicial review and this should remain as the process for doing so.

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. (Page 231)

BBC response to provisional proposal 71

This Council believes that applicants should be offered the right of hearing before a licensing appeals panel or sub committee for decisions that have been made by authorised officers to refuse applications on grounds of policy or under the “fit and proper person” criteria. This gives the applicant an opportunity to put forward their case as to why their application for a license should be granted and gives elected Members the opportunity to consider the application in a fresh, neutral and dispassionate way. This is what is offered at Brentwood Borough Council and in the main has the effect of reducing the number of appeal cases brought direct to the Magistrates Court by applicants. Support would be given to any similar proposal under new legislation.

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court. (Page 232)

BBC response to provisional proposal 72

This Council agrees with this proposal and on balance believes this to be the fairest and most proportionate way to deal with such appeals, particularly in regards to the question of "fit and proper person" and would not wish to see such appeals go to a specialist or technical tribunal like the Traffic Commissioners for example.

Question 73

Should there be an onward right of appeal to the Crown Court? (Page 233)

BBC response to question 73

This Council agrees with this further right of appeal which is contained within the current system and believes that on balance it is right to retain this, particularly where person's livelihoods may be at stake with regards to suspensions or revocations for example. They should not have their lawful right to challenge licensing authority decisions or Magistrates Court decisions impeded or restricted.

Public Law Team (Taxi and Private Hire)
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Our Ref: Nigel Horler (Diamond Cars)

Your Ref: Taxi and Private Hire

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Dear Sir / Madam,

Response to the consultation in relation to the provisional proposals to reform the law of taxi and private hire services

Rather than attempt to comment in detail on each and every provisional proposal and question posed in the consultation paper, I limit my submission to matters referred to as, or associated with, the key proposals in the summary document.

Whilst I appreciate there are others who consider there is no need for legislative reform, I cannot agree with them – the law is antiquated and incapable of dealing with the issues that arise from the use of modern technology; the different standards applied by different councils confuses the public; and the lack of national standards not only creates the possibility that some councils may have set inappropriate standards, but prevents effective enforcement outside the area of the council that licensed a vehicle and its driver.

I agree with the Law Commission that two tiers should be retained and London should be regulated by the same flexible framework that is proposed for the rest of England and Wales. Issuing statutory guidance to licensing authorities would reduce inconsistencies between them and promote consistency with VOSA in relation to licensing limousines.

The creation of a wheelchair accessible category of vehicle would blur the distinction between the two tiers. Whereas a limousine will only ever be pre-booked and a pedicab will only ever be hired in the street, wheelchair accessible vehicles must remain in both tiers to ensure that the needs of wheelchair users are met.

When setting national standards, the Law Commission must focus on only those matters that truly need to be set nationally, namely those relating to vehicle roadworthiness (and possibly exhaust emissions) and driver standards, including disability awareness.

Issues relating solely to taxis, such as driver and passenger safety, accessibility, vehicle manoeuvrability (and exhaust emissions), matters of civic pride and any additional criteria for drivers are all matters that should be determined by individual licensing authorities.

Any requirements relating to the display of plates and signage (including any provision for exemption from display) by private hire vehicles should only be those prescribed by national standards.

Powers of enforcement in relation to national standards of roadworthiness should not only be exercisable nationally by a police constable, but should be extended to authorised officers of all licensing authorities and to VOSA officers, subject to them all being appropriately trained and acting in accordance with statutory guidance.

If officers of those agencies were trained to a national standard of competence, all could be authorised to issue fixed penalty notices for vehicle unroadworthiness and empowered to remove a vehicle licence plate immediately upon suspension of the licence.

If the fines paid in relation to such fixed penalty notices were collected in the same way as any other motoring fixed penalty fine, the revenue could be distributed between licensing authorities, police forces and VOSA to provide appropriate funding for future enforcement.

Police powers should be extended to provide for the seizure of unlicensed vehicles used for licensable purposes, with the courts being empowered to order forfeiture and the proceeds of any such sale to be used solely for the purpose of funding future enforcement.

By financing enforcement costs with revenue from fixed penalty and court imposed fines, and the proceeds of sale of court forfeited unlicensed vehicles, the only costs to be paid by an applicant would be those relating to processing and determining their application. The fees to be charged for making an application (as opposed to being paid on grant) should be set nationally, if standards are set nationally. If a licensing authority were to impose additional requirements for taxis, the costs relating to those requirements should be set and charged by the licensing authority in addition to nationally set licensing fees.

Councils should retain, and Transport for London should be given, the ability to impose quantity restrictions for taxis, because in some areas regulating numbers is the only way to prevent over-ranking and obstruction (which can give rise to public disorder), congestion and pollution by oversupply. The creation of a single tier would exacerbate those problems and create new problems relating to when and where a single tier taxi could stand or ply for hire.

The ability to introduce peak time only taxi plates, in areas imposing quantity restrictions, might provide the means to meet peak and off peak demand, with numbers of vehicles appropriate for the levels of demand at those different times. However, because the introduction of such plates would be likely to confuse the public and create another regulatory burden to be enforced, I am opposed to their introduction.

If new legislation included a statutory definition of 'plying for hire', there would remain circumstances in which a vehicle hire resulted from facts that were neither plying for hire nor pre-booked. Rather than defining 'plying for hire', new legislation should make all arrangements for hiring a vehicle with up to eight passenger seats illegal, unless permitted by a licence, or exceptionally the type of vehicle or its use are exempt from licensing by the Secretary of State and Welsh Ministers.

As public safety is a key justification for licensing taxi and private hire services, anyone who provides passenger transport must be subject to licensing, even if that service is provided under contract with a public authority, ancillary to their main business activity or voluntarily. The impact that may have on restricting the use of vehicles by unlicensed drivers could be eliminated by permitting unlicensed drivers to use licensed vehicles for leisure or other purposes, subject to there being a presumption that an unlicensed driver carrying passengers would be acting illegally, unless they were able to prove that such passengers were not being carried for a licensable purpose.

Operator licensing should apply to anyone who is concerned in accepting or managing bookings for taxis or private hire vehicles, because otherwise anyone wishing to avoid regulatory control could circumvent it by describing themselves as an intermediary.

Regulating the activities of taxi and private hire operators and intermediaries is not only necessary to ensure that potentially sensitive customer information is kept safe, but also because it contributes to protecting the exclusive right of a taxi to stand and ply for hire.

Despite the fact that taxi booking agents are wholly unregulated and London private hire operators are already permitted to sub-contract bookings to an operator anywhere in England, Wales and Scotland, no taxi booking agent or London private hire operator has become dominant nationally. If the ability to sub-contract bookings to a licensed operator anywhere in England and Wales (and Scotland) was extended to all operators, I do not believe this would result in monopolistic market domination, as long as the ability to become licensed as an operator was not made financial prohibitive by regulation.

Whilst some may be concerned that removing the requirement for private hire vehicle, driver and operator licences to be issued by the same authority will reduce regulatory control, attaching appropriate conditions to licences and linking them with criminal and civil sanctions should maintain, if not improve regulatory control.

Public safety would be enhanced by improving the public's understanding of the intrinsic differences between the two tiers by replacing the existing legal terminology with clearly understood alternatives, such as taxi and booked or pre-booked taxi.

I hope my views will help the Law Commission refine its proposals for reforming the law of taxi and private hire services, and look forward to seeing its final report and draft Bill when they are published.

Yours faithfully,

N.W.J Horler
Director
Diamond Cars (Telford) Ltd

From: Graham Evans [REDACTED]
Sent: 10 September 2012 12:57
To: TPH
Subject: Ref taxis licensing

I would like to take this opportunity to put forward a point that I feel Your consultation paper does not take into account or consideration .

And that is that many local authority's use the licensing trade as an easy source of revenue and do not take into account how this affects the public in the area that they are licensing in.

I do agree that a minimum amount of taxis is required per head of Population .
But what you tend to see at the moment are local councils licensing more and more taxis just to increase the revenue for that Authority and not because it is in the interest of the public .

It is not in the public interest or the interest of the hackney carriage Trade to have too many taxis in any one area .

As all that happens in that area is that the operators work longer hours.

It is not in the public interest or in the interest of the operator if a member of the public has to travel in a taxi where the driver is having to work excessive hours just to maintain their standard of living because there are far too many licensed vehicles in the borough where they are licensed .

I think you would agree with me that this is a point that needs to be taken into consideration when discussing the free trade. Issues in any borough

Many thanks
Graham Evans

Mastercabs

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From: Info [REDACTED]
Sent: 10 September 2012 12:59
To: TPH
Subject: Objection to wedding car hire proposal

I would like to object to the change in licensing law proposed about wedding car hire, this law would put so many small businesses out of work All occasions vintage car hire

Sent from my iPhone



Dai Powell
Chair Disabled Persons Transport
Advisory Committee

c/o 2/16 Great Minster House



Telephone:



Public Law Team (Taxi and
Private Hire)
Law Commission
Steel House
11 Tothill Street
London SW1H 9LJ

10th September 2012

Reforming the law of Taxi and Private Hire Vehicles

The Disabled Persons Transport Advisory Committee (DPTAC) welcomes the opportunity to comment on the consultation. We are grateful too that the Commission have taken the opportunity to meet with us and to discuss the proposals in a very open and positive way.

DPTAC was established under the Transport Act 1985 to advise the Government on the transport needs of disabled people. DPTAC has identified four overarching principles on which to base its advice -

- accessibility for disabled people is a condition of any investment
- accessibility for disabled people must be a mainstream activity
- users should be involved in determining accessibility
- achieving accessibility for disabled people is the responsibility of the provider.

These principles are the basis of DPTAC's response to the review and our response is attached.

Yours sincerely

Dai Powell, Disabled Persons Transport Advisory Committee

Reforming the law of Taxi and Private Hire Vehicles

We have set out some general comments and then covered the consultation questions in more detail.

General Comments

DPTAC welcome the overall approach and fully endorse the need for reform. For the most part DPTAC agrees with the proposals. The Commission rightly recognise the importance of the sector for disabled people. However, the proposals could go further to ensure the needs of disabled people are better met. The proposals seem effective in tidying aspects of the law and there is scope for a more creative approach to improving the service offered by taxis and PHVs nationally and locally.

We are concerned too that the paper has become a little confused about the issues relating to Wheelchair Accessible Vehicles and want to try to clarify the matter.

Wheelchair Accessible Vehicles (WAVs) are those which can carry a wheelchair user who needs to remain in their chair during the journey. To accommodate the wheelchair a ramp needs to be deployed when boarding the chair and usually some of the seating in the vehicle needs to be folded away. Some form of clamping arrangement is included to ensure that the wheelchair is held securely during the journey.

When not carrying a wheelchair a WAV is able to operate as a normal taxi or PHV. A non-disabled person has no difficulty in using a WAV. However some people with physical impairments find that some of the features of the design which enables a WAV to accommodate a wheelchair make it difficult or impossible for them to use the vehicle. Most commonly this is because the vehicle has to have a high floor to provide a level surface for the wheelchair. The steep step which results is an obstacle for some people, particularly if they also have to stoop to get through the doorway. In addition in some WAVs the seat is set back some way from door requiring the passenger to stand and turn in the vehicle before being able to take their seat.

Although as you note in your report, some Deaf and visually impaired passengers have difficulties with elements of taxi design, these problems apply in all taxis not just WAVs.

All WAVs are designed to carry a standard design of wheelchair, known as the reference wheelchair. The dimensions of the reference wheelchair are used for the design of all accessible vehicles so that someone who can board a train will know with certainty that they can also travel on accessible buses and trams.

Although there are some wheelchairs larger than the reference chair they are relatively small in number. Requiring WAVs to be able to accommodate a wheelchair larger than the current reference wheelchair would have

considerable consequences for the overall accessibility of the transport network.

Many users of electric wheelchairs prefer WAVS which they are able to board from rear rather than the side. Such vehicles (usually converted Multi-Purpose Vehicles [MPV]) allow the wheelchair user to drive up a ramp into the body of the car and travel facing forwards. They are generally quick and much easier to get into. Some electric wheelchair users struggle to manoeuvre into position in a taxi they board sideways, and some manual wheelchair users have to ask the driver to lift their chair slightly so that it can be correctly positioned.

However a significant concern for licensing authorities is that rear boarding taxis need to be boarded from the road. Because there is no kerb the ramp needs to be significantly longer and in congested cities it can be difficult to find space to deploy it. It is not uncommon for wheelchair users to have to board or alight from a taxi in the road, which is sometimes unsafe and causes congestion at busy times.

It is unclear to us when Ms Lunt brought her case against Liverpool City Council whether she owns one of the few especially large wheelchairs which cannot be accommodated in the majority of WAVs or whether she simply found it more convenient to board a converted MPV. However we would not support a revision of design approaches to wheelchair accessible taxis which are based on the current reference wheelchair because of the implications this would have for other accessible transport services.

One final issue which can cause confusion is the carriage of scooters. Because they are not really designed for indoor use they are generally much less manoeuvrable than wheelchairs and are often impossible to board safely into a WAV. However, because scooters are not for indoor use the user should be able to transfer into the seating in a taxi allowing the smaller scooters to be disassembled and carried in the boot of a taxi.

Quotas

DPTAC considers that a statutory threshold would be appropriate. The supply of WAVs is very limited in much of the country and more active measures are required to increase their availability. Provision of a mixed, accessible, fleet of vehicles in any location needs to become a common expectation and that requires legislative underpinning.

At present the main driver increasing the availability of WAVs is the contracting out of transport services for disabled people by local authorities and the health service. These vehicles are busy in the mornings and later afternoons taking clients to schools, daycentres, hospital appointments etc. Once those contracts have been delivered these WAVs are available for hire during the day, often providing regular clients with transport to the supermarket for example. However after completing the afternoon return journey with their vehicles the driver generally finishes for the day. These

WAVs are rarely available in the evening and at weekends, particularly not for hire on ranks for spontaneous rather than pre-booked journeys.

DPTAC believes that the aim should be that each licensing area achieves a mixed fleet of vehicles such that WAVs are available at all times of day so that wheelchair users have the same opportunities to use taxi and PHV services as the rest of the population.

DPTAC therefore strongly recommends the setting of threshold figure for a minimal proportion of WAVs available for hire (so not including those which are contracted for other purposes) within an area. Setting that level may require further consideration, however, it is reasonable to suggest that this should be above 30% of vehicles available for hire at any point in time.

Local progress towards the minimal threshold should be readily available and published. Such a threshold would be valuable in under-pinning incentives and will indicate in a transparent way the progress made locally.

Incentives

Incentives could be applied where the suggested target for the proportion of WAVs has not been reached. Incentives, in terms of a range of options to be determined locally could then be applied up to the point that the threshold has been met and continued at local discretion to ensure that it is at least retained. These would include:

- providing priority at ranks to accessible vehicles
- reduced costs for licenses
- positive local publicity
- support with financing

The desirability of purchase and use of WAVs should be set out clearly in guidance. We recommend that the views of the trade be sought on those incentives that would be most effective.

National standards

It is very important for disabled people to expect a similar (good) standard of service across the country. Taxis are a crucial part of the transport network for disabled people using public transport. A consistent standard of provision is vital if they are to travel freely throughout the country. Confidence that every local area will have vehicles of a consistent good standard and an adequate proportion of WAVs is essential.

We are uneasy about the use of the term 'minimum' suggesting a low quality threshold. We would prefer the standard to be seen as a 'good' standard.

Detailed consideration of the consultation proposals and questions in Chapter 18

Question 57

Should there be a separate licence category for wheelchair accessible vehicles? This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles.

Agreed – an important recommendation.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards?

Yes – this would be (at least) up to the point at which the minimum threshold for WAVs is met.

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers?

As noted above, it is important that provision of WAVs becomes a common expectation. The proportion of WAVs (those available for hire rather than just those registered within an area – many of which will be tied up with contract work) should be published to allow for national comparison.

WAVs could be allowed priority (queue jumping) at ranks.

The previous Government's consultation on accessible taxis (Consultation on Improving Access to Taxis, February 2009) suggested that there was relatively little difference between the costs of a WAV and a conventional saloon car when looked at over the lifetime of a WAV. Paragraph 2.10 suggests that the average cost of a WAV is £20-30,000 with a life expectancy of 12 years. A suitable second-hand saloon car costs £6-8,000 and will last around 4 years. The annual running costs of a WAV are estimated to be about £1,000 a year higher than those of a saloon car.

However, the higher initial outlay and the currently limited availability of finance (loans) makes such vehicles less attractive to small operators and to owner operators. Consideration could be given to providing financial support to spread the cost of finance to reduce the initial outlay.

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles.

This is discussed above.

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training.

Yes, this is an important recommendation. To increase the quality of provision nationally this should be to a recognised and accredited standard and linked to relevant security (CRB) checks. Training and accreditation should be equivalent to the Certificate of Profession Competence required of those needing or renewing a Passenger Carrying Vehicle license.

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority.

Agreed – this information needs to be widely known not simply to make the process easier for users but to ensure that drivers and operators are well aware that complaints may be brought.

This information should be available in vehicle, at ranks, on licensing authority websites and as a requirement on licensed operators websites. It is not sufficient to simply make this information available in the vehicle as the problems which arise generally mean that a disabled person is unable to get into the vehicle.

Make use of fixed penalty notices – as Question 67 – for failure to pick up or carry a disabled person.

Licensing authorities should publish the names of operators where complaints are upheld and/or penalties imposed. Measures taken in response might include requiring operators to identify publically that they have had a complaint upheld against them which might be rectified by attending further training – such as that available to many motorists who commit lesser speeding offenses. Requiring a driver to attend and pass accredited training will have a similar impact to a fine as they will be unable to work while attending the training.

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation

to stop, if reasonable and safe to do so, in specified circumstances, help?

Yes, this would help. The expectation should be that that taxis have an duty to stop unless doing so would be unlawful.

Processes for complaining will need to identify that this is an expectation and that failure to carry is a legitimate ground for complaint.

Consideration of the wider consultation proposals and questions

Some of the questions and proposals are not relevant to DPTAC – broadly we agree with these and particularly where these will improve the overall quality of service offered to all passengers. Of those that are of greater relevance our views are as follows:

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares.

Agreed and fully supported as having potential to provide a healthy mixed market for disabled users.

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver.

We agree that this is a reasonable general expectation; however the option the to be more specific should be retained. This is to allow for future design innovation whereby a universally accessible vehicle might be developed and its use could be encouraged by reference to the vehicle type.

Provisional proposal 8

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service.

We support this recommendation.

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse?

We do **not** support this suggestion.

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained.

Yes – additionally, why would this not applied to PHVs?

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers.

We do **not** agree with this proposal. Topographical knowledge is essential to the provision of the service generally and particularly for disabled people. We are concerned that drivers who appear uncertain where they are going, or who do not follow the generally expected route for a journey cause particular stress to passengers with mental health conditions and learning difficulties. In addition drivers need to be aware not only of the local area but also to know the location of pickup/set down points for disabled people, particularly wheelchair users who need to board and disembark in a safe position and visually impaired passengers who are unable to identify the vehicle and need to be dropped off at a safe and familiar location.

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable?

No, it is important that disabled people (and perhaps those with learning difficulties in particular) be able to identify vehicles anywhere in the country. National symbols should be clearly identified and clearly visible – not, for example, as a small plate on the rear of the vehicle.

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services?

No. It is important that disabled people and/or those who are vulnerable can expect high standards of safety and security whether in a taxi or PHV.

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety.

No, it is important to allow for future innovation in vehicle design which might provide for commonly accessible vehicles and a desire at that point to make accessibility a condition. We might for example want to provide for conditions specifying, or example "talking" taxi meters or induction loops.

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel?

This requires further consideration and DPTAC strongly recommends that it or its successor, as well as other organisations representing the interests of disabled users, be involved from the outset.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards.

Yes – noting the point earlier about the desirability of moving away from the term “minimal” as it is easily equated with being the lowest acceptable.

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators?

Yes, provided these are not used to the detriment of disabled users.

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements?

The powers need to be on a statutory footing and administered locally.

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority?

No, there is currently a problem with WAVs being unavailable outside weekday daytime peak times. This proposal might work against their availability outside daytime hours rather than increase it.

Question 45

Should national driver safety standards such as the requirement to be a "fit and proper person" be either:
(a) set out in primary legislation; or
(b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions?

b) we favour a more flexible approach. Well intentioned local authorities which wish to increase the proportion of WAVs in their local fleet without adopting a 100% requirement for all taxis to meet this requirement have found the current primary legislation a major impediment to introducing change. However the reluctance of Governments (of all parties) in recent years to contemplate reform of primary legislation had effectively stopped progress towards greater taxi accessibility for disabled people. We prefer as many requirements as possible to be easy to amend so that there can be a prompt response to changing circumstances, particularly new approaches to accessibility.

Question 47

Should national vehicle safety standards be either:
(a) set out in primary legislation; or
(b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions?

b) we favour a more flexible approach.

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how?

Yes, as above this could apply to the failure to pick up a disabled person.

Phil Hodgson
Consultation Co-ordinator
Public Law Team (Taxi and Private Hire)
Law Commission
Steel House
11 Tothill Street
London
SW1H 9LJ

26 September 2012

Dear Mr Hodgson,

Reforming the law of taxi and private hire services: Consultation

With reference to the consultation "*Reforming the law of taxi and private hire services*", the North East Chamber of Commerce (NECC) is pleased to respond on behalf of its members.

NECC is the North East's leading business membership organisation and the only regional chamber of commerce in the country. We represent more than 4,000 businesses located in Northumberland, Tyne and Wear, Durham and Tees Valley, covering both local enterprise partnership areas in the North East. Our members are drawn from all sizes of business across all sectors and employ around 30% of the region's workforce.

The proposals set out in the consultation follow a detailed review of the current law, some of which dates back to 1831 and is still in force. The direction of the proposed changes is towards streamlining and improving taxi and private hire legislation. NECC is supportive of proposals that would introduce national standards; remove the existing requirement for private hire vehicle, driver and operator licences to be issued by the same licensing authority, allowing subcontracting between licensed private hire operators anywhere in England and Wales, and to stop licensing authorities from requiring taxis to return to the area where the vehicle is licensed or private hire vehicles returning to the operator's office before being dispatched to their next job .

NECC is supportive of the proposals as the current law introduced in 1831, 1847 and even 1976 is very outdated in terms of 21st century life; particularly technological advancements (mobile telephones and in-car computer equipment) which makes it very easy to book a taxi or private hire vehicle and for a private hire operator to track, identify and dispatch jobs to the nearest vehicle to the customer. Embracing the opportunities presented by reform would not only make economic and environmental sense, because vehicles would work more efficiently, but would also improve responsiveness and service to customers and help to keep fares as low as possible.

NECC also recognises the importance of allowing drivers to work in different licensing areas. This would allow private hire firms to work more efficiently, whilst also simplifying administration which would reduce costs. Allowing drivers to work for private hire operators licensed by a different licensing authority than themselves would allow firms to take on existing licensed drivers more easily, and expand their business without the need to undergo time-consuming and costly processes for drivers to obtain a licence with another licensing authority. NECC is also supportive of the proposal for only national standards to apply for private hire vehicles which would reduce the burden on businesses; allowing private hire vehicles, once licensed, to work freely across the country without geographic or licensing restrictions. NECC believes this would reduce consumer costs and make the market more competitive.

It is important to recognise the potential benefits of introducing national taxi standards for the industry, the consumer, the environment and the economy. The importance of the taxi business cannot be denied with nearly 300,000 licensed taxi and private hire vehicle drivers in England and Wales driving 78,000 taxis and 155,000 private hire vehicles. North East taxi firms are receiving tens of thousands of calls a day, but are currently having to turn down thousands of requests as regulations prevent them from using drivers and private hire vehicles licensed by a different licensing area. Introducing national standards with commercial freedoms would allow taxi firms in the North East (and elsewhere) to grow their businesses to meet increasing consumer demand. NECC is also supportive of the Law Commission's proposal to remove the power that licensing authorities currently have to limit the number of taxi licences, because such practices are anti-competitive.

Local standards regarding licence plates, roof signs, signage, vehicle type and colour creates confusion for the public, causing unnecessary bureaucracy and cost for businesses that operate across more than one local authority, because every driver must always be provided with a vehicle licensed by the right licensing authority. Removing this regulation would allow businesses to grow more easily by reducing the timely and costly regulation imposed on them. NECC believes the Law Commission should consider removing this local requirement.

Alongside supporting a substantial growth in the taxi firm industry NECC is supportive of proposals to increase health and safety and retain the legal difference between taxis and private hire vehicles. In terms of public safety the new regulations outline proposals to introduce more enforcement powers for licensing officers to supervise out-of-borough vehicles and drivers would allow enforcement officers in one licensing authority to monitor drivers and vehicles from another authority, which would help ensure all passengers are safe irrespective of the authority with which cars are licensed.

NECC also agrees with the proposal to retain the two tier system; the legal difference between taxis and private hire vehicles and their trade. We recognise that retaining the division would allow the regulatory system to deal differently with distinct market conditions in the pre-booked market on the one hand and hailing and ranking on the other. NECC notes that there have been several calls for a one tier system, in which there is a unified category of vehicle doing all (or) most of the same work – pre-booked, hailing and ranking, as the distinction is not well understood by the public. However NECC agrees that this would be disadvantageous; the reasonably competitive pre-booked market would be over-regulated and the hailing and ranking markets would be under-regulated.

In conclusion NECC is supportive of the proposal to introduce national taxi and private hire vehicle standards as we feel it would greatly simplify the regulations surrounding taxis and private hire vehicles, allowing taxi firms in the North East to greatly expand their business and make a significant contribution to the economy. It is important to recognise that by removing unnecessary regulation on the private hire industry, private hire businesses would be able to expand and provide more jobs and support the growth of other local businesses such as garages. However, to simplify the process further we believe the Law Commission should encourage the Government to consider the need to remove local standards and requirements for licensing.

If you require any further information on these issues, please contact me, on
a [REDACTED] or [REDACTED]

Yours sincerely

Amy Michie
Policy Adviser
NECC



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Law Commission
Steel House
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Our Ref: AC/LawCom/01
Your Ref: Taxi and Private Hire
Date: 10 September 2012

Email: tph@lawcommission.gsi.gov.uk

Fax: 020 3334 0201

Dear Sir / Madam,

Response to the consultation in relation to the provisional proposals to reform the law of taxi and private hire services

Rather than attempt to comment in detail on each and every provisional proposal and question posed in the consultation paper, I limit my submission to matters referred to as, or associated with, the key proposals in the summary document.

Whilst I appreciate there are others who consider there is no need for legislative reform, I cannot agree with them – **the law is antiquated and incapable of dealing with the issues that arise from the use of modern technology; the different standards applied by different councils confuses the public; and the lack of national standards not only creates the possibility that some councils may have set inappropriate standards, but prevents effective enforcement outside the area of the council that licensed a vehicle and its driver.**

I agree with the Law Commission **that two tiers should be retained and London should be regulated by the same flexible framework that is proposed for the rest of England and Wales.** Issuing statutory guidance to licensing authorities would reduce inconsistencies between them and promote consistency with VOSA in relation to licensing limousines.

The creation of a wheelchair accessible category of vehicle **would blur the distinction between the two tiers.** Whereas a limousine will only ever be pre-booked and a pedicab will only ever be hired in the street, wheelchair accessible vehicles must remain in both tiers to ensure that the needs of wheelchair users are met.

When setting national standards, the Law Commission must focus on only those matters that truly need to be set nationally, namely those relating to vehicle roadworthiness (and possibly exhaust emissions) and driver standards which should include 3 year CRB checks, DVLA Licence Checks, DVLA Group 2 Medical and disability awareness.

Issues relating solely to taxis (Hackney Carriage Vehicles), such as driver and passenger safety, accessibility, vehicle manoeuvrability (and exhaust emissions), matters of civic pride and any additional criteria for drivers are all matters that should be determined by individual licensing authorities.

Any requirements relating to the display of plates and signage (including any provision for exemption from display) by private hire vehicles should only be those prescribed by national standards.

Powers of enforcement in relation to national standards of roadworthiness should not only be exercisable nationally by a police constable, but should be extended to authorised officers of all licensing authorities and to VOSA officers, subject to them all being appropriately trained and acting in accordance with statutory guidance.

If officers of those agencies were **trained to a national standard of competence**, all could be authorised to issue fixed penalty notices for vehicle unroadworthiness and empowered to remove a vehicle licence plate immediately upon suspension of the licence.

If the fines paid in relation to such fixed penalty notices were collected in the same way as any other motoring fixed penalty fine, the revenue could be distributed between licensing authorities, police forces and VOSA to provide appropriate funding for future enforcement.

Police powers should be extended to provide for the seizure of unlicensed vehicles used for licensable purposes, with the courts being empowered to order forfeiture and the proceeds of any such sale to be used solely for the purpose of funding future enforcement.

By financing enforcement costs with revenue from fixed penalty and court imposed fines, and the proceeds of sale of court forfeited unlicensed vehicles, the only costs to be paid by an applicant would be those relating to processing and determining their application. The fees to be charged for making an application (as opposed to being paid on grant) should be set nationally, if standards are set nationally. If a licensing authority were to impose additional requirements for taxis, the costs relating to those requirements should be set and charged by the licensing authority in addition to nationally set licensing fees.

Councils should retain, and Transport for London should be given, the ability to impose quantity restrictions for taxis (Hackney Carriage Vehicles), because in some areas regulating numbers is the only way to prevent over-ranking and obstruction (which can give rise to public disorder), congestion and pollution by oversupply. The creation of a single tier would exacerbate those problems and create new problems relating to when and where a single tier taxi could stand or ply for hire.

No Local Authority should have the ability to place any artificial barriers to entry such as Local Knowledge Tests or the ability to restrict the numbers of Private Hire Drivers or Vehicles that may operate within their district, market forces should be the only factor that determines the number of Private Hire Drivers and Vehicles that should be made available. We and other Private Hire Companies in our Local Authority have over 4 years experienced the effect of the introduction of artificial barriers to entry and over-zealous regulation by a Local Authority that not only restrict the business growth

but have severe implications for Private Hire Companies and their services to exist in that Local Authority this in return places the Public's Safety at risk.

The ability to introduce peak time only taxi plates, in areas imposing quantity restrictions, might provide the means to meet peak and off peak demand, with numbers of vehicles appropriate for the levels of demand at those different times. **However, because the introduction of such plates would be likely to confuse the public and create another regulatory burden to be enforced, I am opposed to their introduction.**

If new legislation included a statutory definition of 'plying for hire', there would remain circumstances in which a vehicle hire resulted from facts that were neither plying for hire nor pre-booked. Rather than defining 'plying for hire', new legislation should make all arrangements for hiring a vehicle with up to eight passenger seats illegal, unless permitted by a licence, or exceptionally the type of vehicle or its use are exempt from licensing by the Secretary of State and Welsh Ministers.

As public safety is a key justification for licensing taxi and private hire services, **anyone who provides passenger transport must be subject to licensing, even if that service is provided under contract with a public authority, ancillary to their main business activity or voluntarily.** The impact that may have on restricting the use of vehicles by unlicensed drivers could be eliminated by permitting unlicensed drivers to use licensed vehicles for leisure or other purposes, subject to there being a presumption that an unlicensed driver carrying passengers would be acting illegally, unless they were able to prove that such passengers were not being carried for a licensable purpose.

Operator licensing **should apply to anyone who is concerned in accepting or managing bookings for taxis or private hire vehicles**, because otherwise anyone wishing to avoid regulatory control could circumvent it by describing themselves as an intermediary.

Regulating the activities of taxi and private hire operators and intermediaries is not only necessary to ensure that potentially sensitive customer information is kept safe, but also because it contributes to protecting the exclusive right of a taxi to stand and ply for hire.

Despite the fact that taxi booking agents are wholly unregulated and London private hire operators are already permitted to sub-contract bookings to an operator anywhere in England, Wales and Scotland, no taxi booking agent or London private hire operator has become dominant nationally. **The ability to sub-contract bookings to a licensed operator anywhere in England and Wales (and Scotland) should be extended to all operators**, I do not believe this would result in monopolistic market domination, as long as the ability to become licensed as an operator was not made financial prohibitive by regulation.

The ability to sub-contract to a licensed operator anywhere in England and Wales (and Scotland) would assist companies who due to over regulated Local Authority licensing conditions have had to duplicate their business models over different Licensing Authorities in order that they not just grow their business but who have to do this just in order to survive due to over-zealous and artificial barriers being put in place by some Local Authorities which go against market forces to restrict trade and reduce the consumers preferred choice of Private Hire Services. This could also be viewed as a form of Local Authority protectionism of one aspect of the Trade over another.

Whilst some may be concerned that removing the requirement for private hire vehicle, driver and operator licences to be issued by the same authority will reduce regulatory control, attaching appropriate conditions to licences and linking them with criminal and civil sanctions should maintain, if not improve regulatory control.

Public safety would be enhanced by improving the public's understanding of the intrinsic differences between the two tiers by replacing the existing legal terminology with clearly understood alternatives, such as taxi and booked or pre-booked taxi.

I hope my views will help the Law Commission refine its proposals for reforming the law of taxi and private hire services, and look forward to seeing its final report and draft Bill when they are published.

Yours faithfully,

Liam Sweeney
Operations Manager



From: F P Guiver & Sons - Craig Reynolds [REDACTED]

Sent: 10 September 2012 13:19

To: TPH

Subject: Funeral Vehicle Licencing

To whome this may concern,

I as an independent funeral director wish to express my complete dissatisfaction with the suggestion that funeral limousines be included with this reform. My limousines are used solely for the purpose of conveying my clients to and from a funeral service, the cost of our limousines is a set cost within our funeral expenses. The limousine only carries up to 6 mourners and 2 members of staff. These limousines cost in excess of £100k and are coachbuilt for that purpose. They are maintained to a very high standard as you might expect carrying bereaved relatives. They do not carry any form of advertising and are driven by drivers all over the age of 25 years with considerable driving experience. To think that I would have to send all staff for regular medicals and CRB checks in addition to the added cost of the additional checks on the vehicles would mean that I would need to increase the cost of the limousine to the client, who often in our current financial climate are struggling to meet the funeral costs. It might also mean that I would have to consider if I could continue to employ my retired part time staff with the additional cost of the licensing who might only drive once or twice a week sometimes not even that.

I trust you will consider the implications to small funeral companies such as mine, and realise that there is in fact no relation between private hire vehicles and funeral vehicles

--

Craig Reynolds

F [REDACTED] & Sons Ltd
[REDACTED]

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From: Justin Burgess [REDACTED]
Sent: 10 September 2012 13:27
To: TPH
Cc: [REDACTED]
Sir / Madam

It has been brought to my attention that you are looking into licencing Funeral Limousines.

What a totally unworkable and preposterous idea to which I am utterly apposed to as a

Our local authority in Welwyn & Hatfield explored this possibility some years ago as they believed that I could be making an extra living by taking fares off the street after hours or sitting outside night spots in the vein attempt at getting a fare.

Did they or do you really think that I would want a limousine that I have spent in excess of £110,000 on taking fares, I don't think so.

The additional cost of testing drivers, extra Mot's ect will ultimately have to be passed onto our clients which I am also apposed to.

Please leave the Funeral Profession alone, get the un licenced, illegal taxi cabs off the road first.

Justin J Burgess
J.J.Burgess & Sons Independent Family Funeral Directors

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From: Mark [REDACTED]
Sent: 10 September 2012 13:26
To: TPH
Subject: wedding & funeral cars

1. Why does the law Commission want to license Wedding and Funeral cars ?

The main reason given for Private Hire and Taxis is safety.

The car to be safe to carry passengers and have the correct insurance.

Driver check to be of good character.

These reasons have been beared out by women being raped and assaulted in mini-cabs and taxis and accidents where the car have been to be in a dangerous condition.

2. Do Wedding cars come into this category

Has anyone ever been raped or assaulted in a Wedding car ?

We have insured our £20,000 1960 Rolls Royce for around £180 per annum. So even the insurance companies sees the transportation of wedding passengers as very low risk.

We also run Executive (Private Hire) using Mercedes, BMW's and Chryslers. These cost around £2000 per annum and licensed with the PCO. Although we haven't had a cliam for 20 years, which bears out that the insurance companies see Licensed Private Hire vehicles as a hire risk.

3. What boxes would need to be ticked if this was to happen?

At present all Authorities have age restrictions on Licensed Private Hire and Taxi vehicles. Normally 5 to 10 years.

Main reason given for this is emissions and the environment.

Our Wedding cars generally only cover around 15 miles per wedding and generally don't do more than 750 miles per annum. A Wedding car's main function is photographs outside the church or reception etc.

So the environmental footprint of building a new car that is not what the bride would want to choose for her wedding day, would outway years of mileage in a classic or vintage car.

4. What boxes would drivers have to tick.

All Authorities will only allow licensed drivers to drive licensed vehicles. In London the PCO charge over £300 plus police check of around £35. Also the driver would have to have a medical £50 to £100 a total of £400 plus.

The average age of our Wedding car drivers is 65 or over. Many semi-retired, work a few Saturdays through the summer – all of them said they would have to pack up as too much to pay. Many use this to supplement their pensions. One of our drivers says he uses this to run his car, without this income he could not do this as he uses it to run his wife around who has emphazemia.

5. What would it do to the cars ?

Most likely 99 percent of them could not be licensed. The value of historic cars would fall without the Wedding industry.

Many would fall into disrepair and be scrapped.

As a Country we would lose our historic motor industry, and just have to look at books and the internet.

6. I am 56 years of age and some years ago told by the government I would have to prepare myself for a pension because the pot could be empty. I didn't trust the pension fund salesman and have had my own company since I was 25 years old. So in the last 31 years I have investing in Classic and Vintage cars – as in the past the value has increased with age. But should these changes go ahead – my pot will be empty.

7. In all who will this benefit ?


No-one.

Cost to run and administrate it to the Government.

The loss of a industry and historic vehicles tradition.

To be replaced by Taxi and Mini-cabs, the very industry that they were trying to clean up in the first place.

Mark Lewinton

B C Wedding Services


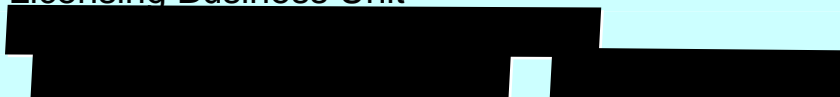
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Contact Information

Jenette Hicks
Licensing Unit Manager
Licensing Business Unit

**Introduction**

Manchester City Council welcomes the opportunity to comment on the Law Commissions' proposals on taxi reform. In compiling this response the City Council has sought the views of elected members and officers (primarily those with responsibility for transportation/ highways/ legal services and taxi licensing) and has held discussion forums with representatives of the local hackney carriage and private hire trades. The City Council is aware that separate responses to the proposals have been submitted by the Association of Greater Manchester Authorities Licensing Officers, and Transport for Greater Manchester, however having regard to the unique nature of the City as a major transport hub, business and tourist destination the City Council felt it appropriate to submit a response in its own right.

The City Council considers that many of the proposals are positive, however in taking this review forward the City Council

hopes that the Law Commission will be able to incorporate best practice from consultation responses into the final proposals. Manchester City Council would welcome the opportunity to be involved in any further consultations or working groups which may arise from this or future consultation exercises

Should you require any further information regarding the comments below, please contact Jenette Hicks as above

CHAPTER 13 - OVERVIEW OF PROVISIONAL REFORM PROPOSALS

	RESPONSE	EVIDENCE SUPPORTING RESPONSE
<p>Provisional proposal 1</p> <p>Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. <i>(Page 160)</i></p>	<p>At this point in time the two tier system is very deeply embedded and the impact of an immediate change to a single tier system would likely be dramatic</p> <p>If there was strong support for a single tier system it may be beneficial to give local authorities the option to opt into a single tier system . This if successful may result in a gradual change towards single tier Taxi services</p>	

CHAPTER 14 – REFORM OF DEFINITIONS AND SCOPE

	RESPONSE	EVIDENCE SUPPORTING RESPONSE
<p>Provisional proposal 2</p> <p>London should be included, with appropriate modifications, within the scope of reform. <i>(Page 162)</i></p>	<p>It would be preferable for London to be included in modification, so that there can be uniformity across the country.</p> <p>There is no reason why London should be different</p>	
<p>Provisional proposal 3</p> <p>The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. <i>(Page 164)</i></p>	<p>Agree that the focus should be on methods of transport provided for hire with the services of a driver with exemptions for certain vehicles or modes of transport whilst making it unlawful to use vehicles, which are neither licensed nor exempt. There is a concern in Manchester about Pedicabs and Rickshaws regarding road safety issues on congested roads, and a strong belief that they should not be licensed or exempt from any new licensing regime (i.e. they should not be used to carry passengers for hire or reward)</p>	

<p>Question 4</p> <p>Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? <i>(Page 164)</i></p>	<p>A driving licence sets a comparator standard across the country , Our response to proposal nos 3 outlines our concerns regarding some types of vehicles</p>	
<p>Provisional proposal 5</p> <p>Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. <i>(Page 165)</i></p>	<p>Agree</p> <p>It is acknowledged that this comment may be outside the scope of this review it is a concern that persons who have been deemed as not fit and proper to drive a taxi can drive PSV vehicles, ie there is no equivalent CRB requirement for PSV drivers</p>	
<p>Provisional Proposal 6</p> <p>References to stage coaches charging separate fares should no longer feature as an exclusion from the definition of taxis</p>	<p>Agree. This should assist by clarifying that taxis (both hackney and private hire) cannot charge separate fares</p>	

<p>Provisional proposal 7</p> <p>The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. <i>(Page 167)</i></p>	<p>Agree statutory guidance should be provided for the licensing of all vehicles in order to assist consistency (and thereby also provide guidance to transport providers)</p>	
<p>Provisional proposal 8</p> <p>The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. <i>(Page 168)</i></p>	<p>This may cause difficulties in defining what constitutes – “in the course of a business”.</p> <p>It may be an idea to start with the premise that everyone needs a licence and then exempt where appropriate ie you may wish to exempt childminders as the parent has made an informed choice to use a particular childminder and that includes the use of the vehicle for the transportation of children.</p> <p>On the other hand a person who books a package holiday, which includes overnight accommodation in a hotel and transport to the airport have no prior knowledge or information regarding the type of vehicle or driver that provides their transport</p>	
<p>Question 9</p> <p>How, if at all, should the regulation of taxis and private hire deal with:</p>		

<p>(a) carpooling; and</p>	<p>The scenario of carpooling could be regarded as similar to childminders in that the persons concerned are making an informed choice, and it is a longer term travel arrangement rather than an isolated one off travel, it is therefore reasonable to assume that this type of activity should be exempt.</p>	
<p>(b) members clubs? <i>(Page 170)</i></p>	<p>There is evidence that exempting members club from compliance with taxi legislation should be open to abuse. The prosecution instigated by Warrington Council against “Pink Ladies” provides such evidence</p>	
<p>Provisional proposal 10</p> <p>The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. <i>(Page 171)</i></p>	<p>Agree, although our thoughts would be that the assumption is that everything is included within the licensing regime unless specifically exempted. It would also allow the Secretary of State to amend the regime without the need for statute, thus allowing more flexibility to address any emerging areas of concern quickly.</p>	

<p>Provisional proposal 11</p> <p>Weddings and funerals should no longer be expressly excluded from private hire licensing through primary legislation. <i>(Page 172)</i></p>	<p>.</p> <p>Whilst we do not have any local information regarding problems with these types of vehicles, it is acknowledged that “wedding cars” incorporate a plethora of vehicle types (novelty vehicles limos etc) they are no longer limited to Rolls Royce and similar vehicles. The current legislation does not adequately define wedding car (i.e. is a hire car carrying the grooms parents a wedding car, is a hire car taking the newly married couple to the airport for the honeymoon a wedding car? etc). Removing the exclusion would remove such ambiguity.</p>	
<p>Question 12</p> <p>Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers’ exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse? <i>(Page 174)</i></p>	<p>The contract exemption should not be reintroduced, but if it were a clear definition should be provided of what constitutes a contract.</p>	

<p>Provisional proposal 13</p> <p>Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to “streets”. <i>(Page 175)</i></p>	<p>Agree this should not be limited to street but should include places such as car parks, private land, airports etc. Section 166 of The Greater Manchester Act 1981 already extends the definition of street for the purposes of the Town Police Clauses Act to incorporate (amongst other things) Manchester Airport, and the City Council would welcome the extension of the national licensing regime to places other than streets to allow regulation of taxi and private hire vehicle services at Manchester Airport to continue.</p>	
<p>Question 14</p> <p>Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? <i>(Page 177)</i></p>	<p>Airports are commercial organisations and are in a unique position. The current system has the potential to limit consumer choice , Where a rank is not provided for hackney carriages vehicles (or is provided in such a location that it is not visible/ accessible to passengers) and/ or there is no provision for private hire pick up then the airport should provide a transfer service from the terminal to an appropriate rank/ pick up point. – In principle the proposal does have merit, but needs to be flexible enough for the needs of the area</p>	

<p>Provisional proposal 15</p> <p>The defining feature of taxis, the concept of “plying for hire”, should be placed on a statutory footing and include:</p>	<p>Agree – we need a statutory definition which is clear</p>	
<p>(a) references to ranking and hailing;</p>	<p>Agree ranking and hailing should be defined including, how technological advances such as apps should be regarded (as per proposal 16 below it may be helpful to deal with this in secondary legislation to enable changes to be made in line with developing technology)</p>	
<p>(b) a non-exhaustive list of factors indicating plying for hire; and</p>	<p>A more prescriptive definition would be preferable to a non-exhaustive list of indicative behaviours, as it would provide certainty to the trade and enforcement agencies about what each regime (taxi and private hire) is permitted to do (or not to do), would reduce the risk of different interpretations across different licensing authorities (especially if cross-border private hire working is to be permitted) and would reduce the need for considerable and expensive litigation in order to settle what is (or isn't) plying for hire.</p>	
<p>(c) appropriate accommodation of the legitimate activities of private hire vehicles. <i>(Page 181)</i></p>		

<p>Provisional proposal 16</p> <p>The concepts of hailing and ranking should not cover technological means of engaging taxi services. <i>(Page 181)</i></p>	<p>Further clarification is required of what ‘engaging a taxi service’ means. It is difficult to incorporate into legislation due to the ever-changing technology. It may be helpful for this issue to be dealt with by secondary legislation, which would enable changes to be made in line with developing technology</p>	
<p>Question 17</p> <p>Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”? <i>(Page 182)</i></p>	<p>Disagree - Scottish legislation deems a contract to have been made when an arrangement has been made between the driver and the customer. It is unclear how such issues as refusal to take short journeys or passengers travelling in wheelchairs could be dealt with as, the contract would only be formed once an agreement is reached.</p>	
<p>Provisional proposal 18</p> <p>The concept of compellability, which applies exclusively to taxis, should be retained. <i>(Page 182)</i></p>	<p>Agree, as to remove it may lead to the trade becoming anti-competitive and there would be an increase in cherry picking, for example refusal to take short journeys</p> <p>Legislation needs to be clear and transparent regarding definition of compellable area</p>	

<p>Provisional proposal 19</p> <p>Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. <i>(Page 183)</i></p>	<p>Agree – but the definition of technology needs to be clear</p> <p>The definition of pre-booked should also be clear , however we recognise that defining prebooked is problematic</p>	
<p>Provisional proposal 20</p> <p>Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved. <i>(Page 184)</i></p>	<p>In principal yes however we have concerns over enforcement.</p> <p>It would be easy for someone to say that they were not working – How would the person prove that he/she was not working?</p>	

<p>Provisional proposal 21</p> <p>The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements. <i>(Page 185)</i></p>	<p>Statutory guidance would be useful and would provide national consistency.</p>	
<p>Provisional proposal 22</p> <p>Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned. <i>(Page 185)</i></p>	<p>Agree that there is a need to update terminology</p> <p>‘Taxi’ is currently a colloquial generic term for both, but agree the need to update terminology to provide a distinction suggest:</p> <p>Taxi v Mini Cab. The term taxi is internationally recognised, the term mini cab is recognised in London and may be relatively easy to adopt throughout other areas of the country</p>	

<p>Question 23</p> <p>Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion? (<i>Page 186</i>)</p>	<p>Agree – If definitions remain as per current legislation then private hire should be able to use the words ‘taxi’ etc as long as it is accompanied by the term ‘pre-booked’. If there was to be legislative changes regarding the definition of vehicles and the term mini cab was to replace what is now private hire the term cab may become synonymous with private hire and taxis become what is now hackneys. In which case there should be no need for private hire vehicles to use the word taxi as they would be known as cab or minicab</p>	
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CHAPTER 15 – A REFORMED REGULATORY FRAMEWORK

	RESPONSE	EVIDENCE SUPPORTING RESPONSE
Provisional proposal 24 Taxi and private hire services should each be subject to national safety requirements. <i>(Page 188)</i>	<p>Agree we would wish to retain our current standards in order to promote 'Civic Pride' and promote good standards of safety – Manchester would not wish to reduce it's current standards in terms of vehicles or drivers.</p> <p>We support the view for higher standards outlined in para 15.10 , however take the view that the issues highlighted in para 15.10 should be incorporated within the national standard as being opposed to considered as a higher local standard</p>	

<p>Provisional proposal 25</p> <p>National safety standards, as applied to taxi services, should only be minimum standards. <i>(Page 189)</i></p>	<p>It is acknowledged that it is outside the remit of the Law commission to set national safety standards however</p> <p>It is difficult to comment fully on this proposal without having an indication as to what the national standard would relate to and the level that would be set. Further clarification is required in relation to the scope and level of such standards.</p>	
<p>Provisional proposal 26</p> <p>National safety standards, as applied to private hire services, should be mandatory standards. <i>(Page 189)</i></p>	<p>It is difficult to comment on this proposal without having an indication as to the proposed mandatory standard. If this was to be set at a low level this could create disparity between standards within the hackney and private hire trade. Any such disparity would need to be justifiable in terms of “safety standards”</p>	

<p>Provisional proposal 27</p> <p>Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers. <i>(Page 190)</i></p>	<p>This proposal would cause the standard of some providers within the private hire industry to drop. Dissatisfied customers would turn to the Council for assistance. The Council would be powerless to deal with issues</p> <p>In addition to safety issues, consideration needs to be given to issues such as air quality. PH /HC vehicles working in city centres contribute significantly to the vehicle emissions. An age limit policy ensures that newer vehicles are compliant with improved emission standards.</p>	<p>A recent report considered by the Councils Licensing and Appeals Committee accompanies this response. The report demonstrates the relationship between vehicle age and standards, including the impact of increased frequency of vehicle testing</p>
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<p>Question 28</p> <p>Should local standard setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? <i>(Page 190)</i></p>	<p>Agree – Local Authorities should be able to set a standard. Manchester City already has a standard, which was set for quality and safety; we would not wish this standard to be eroded. (see response provided at proposal 24)</p> <p>The current policy includes issues such as vehicle signage, colour, age limit, and vehicle test standard higher than MOT with vehicles tested up to 3 times per year. It is acknowledged that private hire vehicles operated in City Centre locations are likely to undertake considerably higher annual mileage than some vehicles operated in rural areas.</p> <p>Any concerns that having local standards may impact on enforcement when such vehicles are operating outside their “home authority area” could be addressed by making it a mandatory condition on both the vehicle and driver’s licence that a copy of the standards that the particular vehicle is required to meet are carried in the vehicle at all times and made available to police/authorised persons upon request. Failure to produce could be an offence, and could also lead to impoundment of the vehicle.</p>	
<p>Question 29</p> <p>What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? <i>(Page 191)</i></p>	<p>The consultation document does not provide any information regarding the criteria of a ‘National standard’.</p> <p>Drafting policies across a range of vehicles may be challenging’</p>	

<p>Question 30</p> <p>Should national conditions in respect of driver safety be different for taxi services compared with private hire services? <i>(Page 192)</i></p>	<p>There should be no difference as safety, should be the same in both PH and HC. Drivers are exposed to the same risk and should have the same protection.</p>	
<p>Provisional proposal 31</p> <p>The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should <i>only</i> cover conditions relating to safety. <i>(Page 192)</i></p>	<p>Disagree; it is important that good safety standards are applied across the industry, however the quality of service is also important. A significant part the country attracts large numbers of visitors, this is especially true for large cities like Manchester, The standard of taxi vehicles may create a lasting impression of a City, and the aspiration for Manchester is that taxi drivers are ambassadors for the City.</p>	
<p>Provisional proposal 32</p> <p>The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. <i>(Page 193)</i></p>	<p>Agree - One of the concerns in drafting this consultation response is that no indication is provided within the consultation papers of proposed national standards</p>	

<p>Question 33</p> <p>What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? <i>(Page 193)</i></p>	<p>Yes consult with technical advisory panel, however careful consideration would be required as to what skills, knowledge would need to be incorporated within the advisory panel. It is important that service user representatives are included on any such panel</p>	
<p>Provisional proposal 34</p> <p>Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. <i>(Page 193)</i></p>	<p>It is difficult to comment fully on this proposal without having knowledge of proposed standards, however in principle it appears to be a good idea . It is acknowledged that a national minimum standard may be of a lower standard than that currently applied by some authorities. Manchester would be reluctant to reduce current policies in relation to vehicle standards</p>	
<p>Question 35</p> <p>Should there be statutory limits to licensing authorities' ability to set local taxi standards? <i>(Page 194)</i></p>	<p>Disagree – too prescriptive approach.</p> <p>Local authorities must act reasonably – if they were perceived to be acting unreasonably by setting standards too high, then applicants or licence holders would have an avenue of challenge by way of either judicial review or an appeal to the Magistrates' Court.</p>	

<p>Question 36</p> <p>Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? <i>(Page 194)</i></p>	<p>In general terms individually tailored conditions are not required in respect of drivers although we would wish to have the ability to impose standard conditions whether local or national. It would be helpful to have the power to remove, modify or add conditions during the currency of a licence similar to the Licensing Act 2003. (e.g. require drivers to complete speed awareness courses where applicable) in order to address issues which may emerge during the life of a licence, which may give additional enforcement options over and above the current options of suspension or revocation. Currently conditions may only be imposed on the grant of a licence, and not during it's lifetime.</p> <p>Operators may require different conditions depending on their location ie an industrial estate or a sole trader working from home. It would therefore be helpful to be able to impose individual conditions</p>	
<p>Question 37</p> <p>Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? <i>(Page 195)</i></p>	<p>Initially this should be left to local arrangements, if evidence subsequently identifies problems occurring because of this approach then consideration could be given to developing a statutory framework at that stage</p>	

<p>Provisional proposal 38</p> <p>Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. <i>(Page 196)</i></p>	<p>We would support the legislative framework including optional provision for local authorities to combine areas in terms of taxi standard setting, Any such framework would need to be clear on the scope of standards that can be covered.</p>	
<p>Provisional proposal 39</p> <p>Licensing authorities should have the option to create, or remove, taxi zones within their area. <i>(Page 196)</i></p>	<p>Agree, zoning creates the potential to effectively manage the availability of vehicles in identified areas which may have specific issues e.g vehicular access, rank space etc</p>	
<p>Question 40</p> <p>Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? <i>(Page 197)</i></p>	<p>In principal yes – however administration of such a scheme would be difficult, and would require local authorities to have the power to limit numbers of taxi licences.</p> <p>Would there be limits on peak/non peak licences – if so how would these be determined. It is difficult to see what advantage this would offer, if Local Authorities could no longer limit taxi numbers</p>	

<p>Provisional proposal 41</p> <p>Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. <i>(Page 198)</i></p>	<p>We acknowledge that this builds in flexibility however Manchester City Council is of the view that higher local standards should be permitted in terms of both vehicles and drivers, and this proposal could undermine those standards.</p> <p>The City Council does however also acknowledge the difficulties that have arisen in recent years, resulting in several protracted legal cases. The findings of those cases could be seen to have undermined the provision of local taxi services</p>	
<p>Provisional proposal 42</p> <p>We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs. <i>(Page 199)</i></p>	<p>Agree. Acknowledge that this could also present some difficulties, as hackney carriages from neighbouring authorities could flood busy areas, e.g. City Centre claiming to have “just dropped off”. Also would not be difficult for vehicles from neighbouring authority such as Salford to comply with the return to area requirement as the Salford City Council area begins just across the river from Manchester City Centre – a matter of a few moments drive away. In terms of hackney carriage journeys such claims would be difficult to disprove as there is no requirement for individual journey record keeping</p>	

<p>Provisional proposal 43</p> <p>Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares. <i>(Page 200)</i></p>	<p>HC – should have a national formula for elements of taxi fare determination. This would provide consistency and reduce cost to the trade. Although acknowledging that the cost of each element may vary throughout the country e.g. fuel may be more expensive in remote rural areas, vehicle insurance may be more expensive in urban area, therefore any such national formula should be applied locally using local data</p> <p>PH- Customer choice will dictate fares – no need for Council to be involved.</p> <p>However transparency is needed in relation to fares within the private hire industry. The current legislative framework in relation to meters is unhelpful, if taxi meters are to be fitted as a mandatory requirement then provision needs to be made for enforcement of the Measuring Instruments (Taximeters) Regulations 2006.</p>	
<p>Question 44</p> <p>Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? <i>(Page 200)</i></p>	<p>Disagree – This has the potential for confusion and overcharging</p> <p>However it's recognised that the current legislation creates a difficulty where a hackney carriage vehicle is dispatched for a short journey, but where the travel distance to the journey start point is significant. Current legislation only allows the metered fare for the actual journey to be charged.</p>	

CHAPTER 16 – REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING

Vehicles licensed in 2 areas – who does MOT/test, who gets fee, how are the enforcement costs allocated

	RESPONSE	EVIDENCE SUPPORTING RESPONSE
<p>Question 45</p> <p>Should national driver safety standards such as the requirement to be a “fit and proper person” be either:</p>		
<p>(a) set out in primary legislation; or</p>	<p>Should be set out in primary legislation with Secretary of State guidance to what a fit and proper person is, incorporating a national set of guidelines to convictions to ensure national consistency.</p>	
<p>(b) Included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? <i>(Page 203)</i></p>	<p>The introduction of ‘national guidelines’ in respect of convictions will ensure consistency and will stop applicants shopping around for an authority that will licence them, such guidelines would also provide consistency for Magistrates in appeal situations</p>	

<p>Provisional proposal 46</p> <p>Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. <i>(Page 204)</i></p>	<p>Disagree acknowledge that the fit and proper test does not currently apply to licensed vehicles, however this authority has experience of vehicle proprietors receiving long prison sentences for drugs related offences, and both hackney carriages and private hire vehicles can provide an ideal opportunity for drugs to be couriered around at night without arousing suspicion.</p>	
<p>Question 47</p> <p>Should national vehicle safety standards be either:</p>		
<p>(a) set out in primary legislation; or</p>	<p>Disagree – too inflexible.</p>	
<p>(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? <i>(Page 205)</i></p>	<p>Should be set in general powers as they can be changed quickly if there is an issue</p>	
<p>Provisional proposal 48</p> <p>Operator licensing should be retained as mandatory in respect of private hire vehicles. <i>(Page 207)</i></p>	<p>Agree- this should be retained - records are required by authorities and police for compliance issues.</p> <p>However for sole traders (one vehicle and one driver running from home) may wish to consider combined Operator/Driver/Proprietor licence.</p>	

<p>Question 49</p> <p>Should operator licensing be extended to cover taxi radio circuits and if so on what basis? <i>(Page 208)</i></p>	<p>Agree – same risks for pre-booked PH as for pre-booked HC</p>	
<p>Provisional proposal 50</p> <p>The definition of operators should not be extended in order to include intermediaries. <i>(Page 209)</i></p>	<p>Agree</p>	
<p>Question 51</p> <p>Should “fit and proper” criteria in respect of operators be retained? <i>(Page 210)</i></p>	<p>Agree – as unscrupulous operators could use Operation for criminal activities. Unscrupulous operators may be able to determine from their booking records when a house is likely to be unoccupied (for example if they have a job booked to take a family to an airport, picking them up from the airport again in a week’s time) and may therefore misuse such information.</p> <p>Also, for the reasons outlined above, there needs some consideration into preventing persons who have had their Operator licence either revoked, suspended or refused, from Operating behind the scenes ie putting up a front man</p>	

<p>Provisional proposal 52</p> <p>Operators should be expressly permitted to sub-contract services. <i>(Page 210)</i></p>	<p>Agree – makes sense – but there may be an issue with standards from one area to another</p>	
<p>Question 53</p> <p>Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? <i>(Page 210)</i></p>	<p>Agree – this would assist enforcement in relation to Ply for hire – booking must be recorded prior to the commencement of the journey (prior to the person getting into the vehicle)</p>	

CHAPTER 17 – REFORMING QUANTITY CONTROLS		
	RESPONSE	EVIDENCE SUPPORTING RESPONSE
Provisional proposal 54 Licensing authorities should no longer have the power to restrict taxi numbers. <i>(Page 213)</i>	Disagree. Manchester currently restricts the number of hackney carriage licences. We acknowledge that the allocation of licences via a managed growth policy does cause difficulties in terms of allocation, however our current view is that this is less problematic than the potential problems that could arise following delimitation	
Question 55 What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? <i>(Page 213)</i>	Manchester’s concerns regarding delimitation of hackney carriage numbers are primarily focussed on traffic management issues. Delimitation would result in an increase in hackney carriages, there is little or no scope within the City for additional rank provision and therefore it is envisaged that congestion issues would arise from hackneys either driving around the City waiting to be hailed or from over ranking and the resulting obstruction issues that arise from this practice	

<p>Question 56</p> <p>Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed? <i>(Page 215)</i></p>	<p>Careful consideration would need to be given to ensure that any transitional arrangements put in place were not burdensome and complied with all relevant legislation e.g equality</p>	
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CHAPTER 18 – TAXI AND PRIVATE HIRE REFORM AND EQUALITY

	RESPONSE	EVIDENCE SUPPORTING RESPONSE
<p>Question 57</p> <p>Should there be a separate licence category for wheelchair accessible vehicles? This could involve:</p>		
<p>(1) a duty on the licensee to give priority to disabled passengers; and</p>	<p>Disagree, it is difficult to envisage how this could be effectively enforced, how would disability be determined, not all disabilities are apparent and therefore licensees would not be able to determine whether persons were disabled or not, in addition in a hailing situation drivers could claim merely not to have seen customers.</p> <p>If priority was to be given to disabled customers this could impact on the ability to provide a satisfactory service to pre booked journeys.</p>	

<p>(2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. <i>(Page 217)</i></p>	<p>Agree, however any such provision would have to recognise that this may be difficult in respect of some existing ranks, and there may be reluctance to remove/ relocate popular ranks.</p> <p>Such provision should be considered in the design and development of new ranks, but the provision would need to accommodate the various WAV (dependent upon what vehicles are licensed side and/or rear loading)</p>	
<p>Question 58</p> <p>Should licensing authorities offer lower licence fees for vehicles, which meet certain accessibility standards? <i>(Page 217)</i></p>	<p>In Manchester our current policy is that all hackney carriage vehicles meet the TfL approved standard. It may be possible that a reduction could be offered for private hire vehicles; however consideration would need to be given as to how this would fit with the legal requirement for licence fee to be set at a fee that is up to cost recovery. If this provision was to be introduced it would be helpful for the legislative framework to detail the parameters under which reduced fees can be offered</p>	

<p>Question 59</p> <p>Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? <i>(Page 217)</i></p>	<p>Consideration could be given to introducing a requirement for private hire operators to have access to WAV (possibly a % of the total fleet operated via the PHO), such vehicles could be either private hire or hackney vehicles with radio access to the operator. It is acknowledged that such a proposal doesn't guarantee the availability of WAV 24/ 7.</p> <p>Consideration could be given to the introduction of tax relief type incentives</p> <p>Consideration could be given to introducing hailing points for taxis with clear signage</p>	
<p>Provisional proposal 60</p> <p>We do not propose to introduce national quotas of wheelchair accessible vehicles. <i>(Page 218)</i></p>	<p>Agree it is acknowledged that the demand for such vehicles would vary dependent upon local need, however please see response to proposals 59 above which suggests consideration be given to require PHO to have access to WAVs (nos of WAV vehicles being dependent upon total nos of vehicles operated by PHO)</p>	
<p>Provisional proposal 61</p> <p>National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. <i>(Page 219)</i></p>	<p>Agree, however it is our opinion that drivers should also be trained in a variety of subjects, including customer care, and conflict management.</p>	

<p>Provisional proposal 62</p> <p>In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. <i>(Page 219)</i></p>	<p>It is our view that it may be more helpful to develop a national charter, which identifies the behaviour, and conduct expected of both passengers and the taxi trade. It is our view that at times both passengers and drivers behaviour falls below the conduct expected. Any information regarding how to make complaints to the licensing unit should also outline how to make compliments</p> <p>In addition if as per proposal nos 27 only safety standards can be applied this leaves no scope for local authority to deal with quality issues e.g dirty vehicle, drivers taking long routes, drivers getting lost, not giving reasonable assistance etc</p>	
<p>Question 63</p> <p>What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? <i>(Page 220)</i></p>	<p>Please see response to question 57. Training in disability awareness would give confidence to drivers to provide an improved service to customers.</p> <p>It is difficult to see how an obligation to stop could be effectively enforced, the driver could simply claim not to have seen the customer.</p> <p>Improved signage at hailing points may assist in reducing drivers claims not to have seen passengers</p>	

CHAPTER 19 – REFORMING ENFORCEMENT		
	RESPONSE	EVIDENCE SUPPORTING RESPONSE
<p>Question 64</p> <p>Should authorised licensing officers have the power to stop licensed vehicles? <i>(Page 222)</i></p>	<p>Yes, however recognised that in areas where there are significant numbers of out of town vehicles this may have an impact on officer resources. Licence fees would remain with the issuing authority</p>	
<p>Question 65</p> <p>What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”. <i>(Page 223)</i></p>	<p>The legislation needs to be clarified for a better understanding of what touting is. This would lead to more robust enforcement.</p>	

<p>Question 66</p> <p>Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? <i>(Page 223)</i></p>	<p>Yes, such practice is currently undertaken by the Police, clear guidance would be required to outline the circumstances where impounding may be deemed appropriate. The development of guidelines would assist in consistency of enforcement.. An accreditation scheme may be helpful to assist in determining which officers should be given such powers</p>	
<p>Question 67</p> <p>Should licensing authorities make greater use of fixed penalty schemes and if so how? <i>(Page 225)</i></p>	<p>Yes, again a legislative framework would be required of where FPNs may be appropriate, this may help to address some of the financial issues that may arise in respect of enforcement of vehicles licensed outside the area</p>	
<p>Provisional proposal 68</p> <p>Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. <i>(Page 225)</i></p>	<p>Agree</p>	
<p>Question 69</p> <p>Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? <i>(Page 226)</i></p>	<p>Agree that powers should extend to suspension where there are issues relating to public safety, however suspension should be on the basis that the suspension can either be lifted by the authority that issued the suspension or a full review is undertaken by the authority that issued the licence</p>	

CHAPTER 20 – REFORM OF HEARINGS AND APPEALS

	RESPONSE	EVIDENCE SUPPORTING RESPONSE
<p>Provisional proposal 70</p> <p>The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. <i>(Page 230)</i></p>	<p>Agree, to do otherwise would allow competitors to appeal decisions in an attempt to obtain business advantage. Large businesses with significant funds could use the judicial process to in an attempt to destabilise smaller businesses</p>	
<p>Provisional proposal 71</p> <p>The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. <i>(Page 231)</i></p>	<p>Disagree, the existing appeal to magistrates court should remain in place, as otherwise an administrative burden (which would have to be funded out of taxi licensing fees) would fall on the Local Authority as every applicant or licence holder whose licence was refused, suspended or revoked would effectively have a " free" appeal and would inevitably exercise that right. The costs of bringing an appeal to the Magistrates' Court provide a financial disincentive against some of the more frivolous appeals.</p>	

<p>Provisional proposal 72</p> <p>Appeals should continue to be heard in the magistrates' court. <i>(Page 232)</i></p>	<p>Agree</p>	
<p>Question 73</p> <p>Should there be an onward right of appeal to the Crown Court? <i>(Page 233)</i></p>	<p>Agree, although consideration could be given to requiring appellant licence holders to obtain the permission of a Crown Court judge before their appeal is lodged (similar to the permission stage in a Judicial Review), in order to reduce the number of appeals without merit being made.</p>	

**Manchester City Council
Report for Information**

Report To: Licensing & Appeals Committee – 28 August 2012

Subject: Hackney Carriage and Private Hire Vehicle Inspection Results

Report of: Head of Business Units

Summary

This report provides up to date information in relation to the private hire and hackney carriage vehicle inspection results.

Recommendations

Committee note the content of the report and support the continuance of the additional testing for hackney carriage vehicles age 7 years and older and private hire vehicles age 5 years and over.

Committee request officers provide a report in respect of the effectiveness of the current Policy regarding emission standards for hackney carriage and private hire vehicles.

Wards Affected: All

Community Strategy Spine	Summary of the contribution to the strategy
Performance of the economy of the region and sub region	Private hire and hackney carriage vehicles are a vital link in the transport system. The continued regular testing of taxis provides economic benefits to the industry surrounding maintenance of vehicles and provision of vehicle parts.
Reaching full potential in education and employment	The taxi trade continues to support employment. The maintenance of the current vehicle standards assists in maintaining a professional aspect to taxi driving.

Individual and collective self esteem – mutual respect	Manchester is known throughout the Country to have an exceptional taxi fleet. The maintenance of the current standard assists drivers to feel a sense of pride in both their profession and City.
Neighbourhoods of Choice	The City Council's remit in licensing of hackney carriage and private hire vehicles is to ensure the safety of the public

Full details are in the body of the report, along with any implications for:

- Equal Opportunities Policy
- Risk Management
- Legal Considerations

Financial Consequences – Revenue

None

Financial Consequences – Capital

None

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Background documents

Vehicle test data – Hammerstone garage testing sheets
Licensing & Appeals Committee Report 28 August 2008
Licensing & Appeals Committee Report 7 June 2010, and 31 August 2010
Local Government (Miscellaneous Provisions) Act 1976
Manchester City Council Age and Emissions Policy

Contact Officer for retrieval of background documents: Ann Marku, Principal Licensing Officer telephone 0161 957 9596

1.0 Introduction

- 1.1 Manchester City Council currently licences 1088 hackney carriages and 2541 private hire vehicles [data sourced 11 June 2012]. The majority of vehicles are tested twice yearly with private hire vehicles aged 5 years and over and hackney carriage vehicles aged 7 years and over being subject to three tests per year.
- 1.1.1 Hackney carriage and private hire vehicles are tested at the Council's Hammerstone Road depot and information from the vehicle test sheets is collated into data, and has previously been used to assist in the formulation of vehicle policy
- 1.2 It was envisaged that an annual report would be compiled, using data collated from the vehicle inspections, which would inform the Committee if the standards introduced by them on 26 August 2008 and in April 2011 were having a beneficial impact on the previous disappointing pass rate of private hire and hackney carriage vehicle inspections.
- 1.2.1 Due to staff changes within the taxi licensing section, it has not been possible to provide the Committee with any additional reports, since the report considered on 31 August 2010.
- 1.3 The purpose of this report is for members' information and to provide up to date and comparative information on vehicle inspection test results

2.0 Background

- 2.3 At its meeting of 26 August 2008 the Licensing & Appeals Committee approved the following measures aimed at reducing the percentage of hackney carriage and private hire vehicles that failed their annual and six-monthly mechanical inspections. These measures have been in place since February 2009, with the exception of annual testing for brand new vehicles, which was introduced in July 2009.
- The introduction of a vehicle inspection manual.
 - Authorisation of vehicle inspectors to suspend vehicles.
 - Introduction of a re-test fee to be applied to vehicles requiring the use of the garage ramp facility or other technical equipment.
 - An annual test to be applied to brand new licensed vehicles [as opposed to the normal six monthly tests]. *
- 2.4 At its meeting of 31 August 2010, the Committee approved additional testing for hackney carriage vehicles age 7 years and over and private hire vehicles age 5 years and over. These additional measures were introduced after the Committee considered the vehicle inspection data contained within the report of 31 August 2010. The additional testing commenced on 1 April 2011.

- 2.5 In order to accommodate the additional testing at the Council's Hammerstone Road garage an additional testing bay was provided and has been operational since summer 2011.
- 2.6 The vehicle testing capacity and availability of test slots is reviewed on a daily basis by the licensing unit for the following reasons:
- To monitor the availability of test slots over the next 4 to 10 working days – to ensure that there are sufficient vehicle inspections appointments available to cover the vehicle applications received.
 - To ensure that vehicle test appointments are available within working 5 days in line with agreed targets.
- 2.7 When demand for vehicle tests is high additional vehicle test appointments are made available by extending the working day and /or weekend test appointments.
- 2.8 The below table shows the number of vehicle inspection slots that were used and unused for the period January 2012 – June 2012

Table 1 – Vehicle Inspection Slots

MONTH	Slots Available	Slots Used	Slots Unused
January 2012	803	750	53 (6.6%)
February 2012	806	752	54 (6.6%)
March 2012	841	816	25 (2.9%)
April 2012	831	792	39 (4.6%)
May 2012	946	904	42 (4.4%)
June 2012	836	789	47 (5.6%)
TOTALS	5063	4803	260 (5.1%)

3.0 Vehicle Test Results – Hackney Carriage Vehicles

- 3.1 The following tables 2-7 detail additional information for hackney carriage vehicles in relation to test results from 1 April 2011 to 31 March 2012. The tables concentrate on the most common vehicle fail items i.e. emissions, front and rear suspension and bodywork, and compare this to the data contained in the 2010 report. To provide a like for like comparison the same fail items have been used in the tables below.
- 3.1.1 The tables also provide a percentage comparator for 1 April 2011 to 31 March 2012, against the data which was the subject of the report to Committee on 31 August 2010 (April 2009 – March 2010)

Table 2 – Hackney Carriage Vehicle Inspection Results

3.2 Table 2 shows the overall inspection results from 1 April 2011 to 31 March 2012. During this period 1891 hackney carriage vehicle tests were carried out. The table shows the number of tests undertaken in relation to the age against the total number of tests over the whole period.

Example: there were 113 tests on vehicles age 0-1yrs tested, which equates to 6.0% of the total number tested, 101 (89.4%) of these passed their test and 12(10.4%) failed.

3.2.1 Table 2 – Overall Inspection Results

HACKNEY CARRIAGE – Overall Inspection Results							
Overall TOTAL PASS/FAIL number of Tests for Period April 2011 to March 2012							
A Age (Yrs)	B Number of Tests undertaken in relation to age	C % age against total number tested (1891)	D Number passed in relation to age against total number tested	E % passed in relation to age against total number tested	F Number failed in relation to age against total number tested	G Comparator April 2011- March 2012 % failed in relation to age against total number tested 1891	H Comparator April 2009- March 2010 % failed in relation to age against total number tested from the 2010 report
0-1	113	6.0%	101	89.4%	12	10.6%	7.4%
1-2	135	7.1%	96	71.6%	38	28.4%	13.7%
2-3	156	8.2%	118	75.6%	38	24.4%	22.0%
3-4	166	8.8%	117	70.5%	49	29.5%	35.5%
4-5	273	14.4%	170	62.3%	103	37.7%	42.9%
5-6	225	11.9%	123	54.7%	102	45.3%	45.9%
6-7	193	10.2%	101	52.3%	92	47.7%	57.7%
7-8	173	9.1%	68	39.3%	105	60.7%	60.4%
8-9	148	7.8%	65	43.9%	83	56.1%	62.2%
9-10	188	9.9%	63	33.5%	125	66.5%	76.8%
10-11	85	4.5%	35	41.2%	50	58.8%	84.5%
11-12	33	1.7%	10	30.3%	23	69.7%	83.1%
12-13	4	0.2%	1	25.0%	3	75%	100%
Totals	1891	100%	1068	56.5	823	43.5%	49.6%

4.3 Table 2 above shows that the failure rate of vehicles tested increases as the age of the vehicles increase. Comparison of the figures of April 2009/10 with April 2011/12 shows that in the 12 month period to March 2012 there was an overall improvement in the vehicle pass rate, and there was a substantial improvement in the number of older vehicles passing the vehicle test

4.3.1 It is acknowledge that there are some anomalies; Up to March 2012 there was an increase in failure rate for vehicles 0-3 years of age. Further investigation has revealed that there has been an issue with the TX vehicles in relation to their ability to pass the emission test. Since 1 April 2011, emissions are tested at every inspection, whereas they were previously tested on an annual basis.

The figures cannot therefore be compared as 'like for like' with those of April 2009/10.

5.0 Table 3 – Hackney Carriage Vehicle Emission Results

5.1 Emission tests were previously carried out on hackney carriage vehicles on first application and then annually. Since 1 April 2011 emission tests have been carried out at every vehicle inspection test Table 2 below shows the results of emission tests carried out on vehicles from 1 April 2011 to 31 March 2012.

5.2 Table 3 shows 1891 emission tests were carried out on hackney carriage vehicles and details the number and percentage of pass/failure.

5.3 Table 3 – Hackney carriage emissions testing results

HACKNEY CARRIAGE - EMISSIONS						
A Age(yrs)	B <i>Tests undertaken for emissions according to age</i>	C <i>Number passed Against column B</i>	D <i>% passed against column B</i>	E <i>Number failed against column B</i>	F Comparator April 2011-March 2012 <i>% failed against column B</i>	G Comparator April 2009-March 2010 <i>% failed against column B from 2010 report</i>
0-1	113	101	89.4%	12	10.6%	0.0%
1-2	134	96	87.3%	17	12.7%	3.7%
2-3	156	118	94.2%	9	5.8%	12.3%
3-4	166	117	89.8%	17	10.2%	20.0%
4-5	273	170	93.6%	23	8.4%	23.3%
5-6	225	123	87.1%	29	12.9%	32.2%
6-7	193	101	77.7%	43	22.3%	38.9%
7-8	173	68	84.4%	27	15.6%	41.6%
8-9	148	65	83.1%	25	16.9%	30.6%
9-10	188	63	80.3%	37	19.7%	34.0%
10-11	85	35	81.2%	16	18.8%	36.6%
11-12	33	10	66.7%	11	33.3%	55.6%
12-13	4	3	75.0%	1	25.0%	0%
Total	1891	1	85.9%	267	14.1%	25.2%

5.4 The above table shows that overall the emission failure rate has dropped substantially, apart from those vehicles tested 0-2 years of age. This is due to a number of TX4 vehicles that have experienced engine problems in relation to their ability to pass the emission test. The reason this has occurred is not known.

- 5.4.1 Officers have contacted colleagues from Transport for London (TFL), who are not aware of any issues in relation to the TX4. They have however previously carried out some investigations' into the use of oil in these vehicles in relation to performance. The vehicles run on synthetic oil and where proprietors do not use the correct oil the engines do not perform as specified by the manufacturer.
- 5.4.2 In vehicles over 2 years of age there has been a significant reduction in the number of vehicles failing emission standards, the increase of frequency of vehicle testing may have resulted in the vehicles having to be better maintained
- 5.5 The current age / emission policy dictates that a vehicle which is over the age of 10 years, and not Euro III compliant must have an emission reduction system fitted. Prior to the fitting of any emission reduction system, the vehicle is required to have a full service in particular with respect to replacement of fuel injectors, filters and the correct working of the diesel pump, which may need to be re-calibrated. Once the emission reduction kit has been fitted the vehicle must continue to be regularly serviced to maintain the efficiency of the system.
- 5.6 In 2010 more detailed investigations were carried out in relation to emission test results for hackney carriage vehicles that had emission kits fitted. These have been replicated for the purpose of comparison. Table 4 below shows that 54 vehicles between the ages of 8-12 years have had an emission reduction system fitted. The table also shows the emission test pass and failure test results in relation to the 54 vehicles that have an emission reduction system fitted.

Table 4 Hackney Carriages with emission reduction systems fitted

HACKNEY CARRIAGE – EMISSIONS REDUCTION SYSTEM FITTED						
A Age(yrs)	B <i>Number of tests for emissions according to age</i>	C <i>Number of tests passed Against column B</i>	D <i>% Tests passed against column B</i>	E <i>Number of tests failed against column B</i>	F Comparator April 2011- March 2012 <i>% failed against column B</i>	G Comparator April 2009- March 2010 <i>% failed against column B from 2010 report</i>
8-9	3	2	66.6%	1	33.3%	27.3%
9-10	1	1	100%	0	0.0%	0.0%
10-11	33	22	66.7%	11	33.3%	36.6%
11-12	17	4	23.5%	13	76.5%	55.6%
Totals	54	29	53.7%	25	46.3%	38.4%

- 5.7 The above table shows the number of vehicles, between the ages of 8-12 years of age that have been fitted with an emission reduction kit. The vehicles that have been fitted with an emission reduction system that are less than 10 years of age are those that were originally manufactured with a Ford engine

which have been replaced with an engine that is not Euro III compliant and as required by the current City Council policy have had an emission reduction kit fitted following the replacement engine being fitted.

- 5.8 The figures above show that at age 11-12 there is a dramatic increase in the vehicle failing the emission test, even though these vehicles have been fitted with an emission reduction system.
- 5.9 Over the last year officers have become aware of a number of issues in relation to emission kits. Investigations have also shown that the emission kits life span is only 3-5 years and that if the vehicle is not fully maintained; vehicles are unlikely to pass the emission test.
- 5.9.1 In relation to the high increase in vehicles age 11-12 failing the test vehicle inspectors are of the opinion that this could also be due to vehicle licences not being renewed past the age of 12. Proprietors are therefore less likely to fully maintain the vehicles in their last year on the road.

6.0 Table 5 – Hackney Carriage Vehicle Front Suspension Results

HACKNEY CARRIAGE – FRONT SUSPENSION						
A Age(yrs)	B <i>Total number of vehicles tested</i>	C <i>Number of vehicles passed FS against column B</i>	D <i>% Vehicles passed FS against column B</i>	E <i>Number of vehicles failed FS against column B</i>	F Comparator April 2011-March 2012 <i>% Failed FS against column B</i>	G Comparator April 2009-March 2010 <i>% Failed FS % against column B from 20120 report</i>
0-1	113	109	96.5%	4	3.5%	0.0%
1-2	134	125	93.3%	9	6.7%	3.1%
2-3	156	149	95.5%	7	4.5%	4.1%
3-4	166	161	97.0%	5	3.0%	4.7%
4-5	273	253	92.7%	20	7.3%	7.3%
5-6	225	204	90.7%	21	9.3%	8.7%
6-7	193	175	90.7%	18	9.3%	8.0%
7-8	173	154	89.0%	19	11.0%	12.2%
8-9	148	131	88.5%	17	11.5%	13.8%
9-10	188	168	89.4%	20	10.6%	12.0%
10-11	85	69	81.2%	16	18.8%	20.0%
11-12	33	26	78.8%	7	21.2%	12.0%
12-13	4	4	100%	0	0%	33.3%
Total	1891	1560	82.4%	163	8.6%	8.1%

- 6.1 Table 5 above shows the results of front suspension tests on hackney carriage vehicles from 01 April 2011 to 30 March 2012.

6.2 The table shows 1891 tests were carried out on hackney carriage vehicles and details the number and percentage of those vehicles, in relation to their age, that passed or failed the test on front suspension.

6.2 The results show that as vehicles get older there is a steady rise in vehicles that failed on front suspension with a significant rise in vehicles aged 11-12.

Table 6 – Hackney Carriage Vehicle Rear Suspension Results

HACKNEY CARRIAGE – REAR SUSPENSION						
A Age(yrs)	B Number of Vehicle tests according to age	C Number of tests passed RS Against column B	D % Tests passed RS against column B	E Number of tests failed on RS against column B	F Comparator April 2011- March 2012% failed on RS against column B	G Comparator April 2009- March 2010 % failed on RS against column B from 20120 report
0-1	113	110	97.3%	3	2.7%	0.0%
1-2	134	132	98.5%	2	1.5%	1.2%
2-3	156	155	99.4%	1	0.6%	3.7%
3-4	166	155	93.4%	11	6.6%	8.0%
4-5	273	249	91.2%	24	8.8%	7.8%
5-6	225	203	90.2%	22	9.8%	4.1%
6-7	193	180	93.3%	13	6.7%	5.0%
7-8	173	159	91.9%	14	8.1%	8.6%
8-9	148	138	93.2%	10	6.8%	3.7%
9-10	188	169	89.9%	19	10.1%	10.0%
10-11	85	74	87.1%	11	12.9%	13.4%
11-12	33	27	81.8%	6	18.2%	10.0%
12-13	4	4	100%	0	0.0%	0.0%
Total	1891	1755	92.80%	136	7.1%	6.4%

7.1 Table 6 above shows the results of rear suspension inspection on vehicles tested between 1 April 2011 to 30 March 2012.

7.2 The table shows 1891 tests were carried out on hackney carriage vehicles and details the number and percentage of those vehicles, in relation to their age, that passed or failed on rear suspension.

7.3 The results in Table 6 show a general increasing trend of increasing failure rates as the age of vehicles increases. Consultation with vehicle testing inspectors has revealed the following information:

- (1) Older vehicle - The suspension is set up differently and they fail on shackle bushes and spring bushes (more to do with wear and tear)

- (2) Newer vehicles- Fail on the spring bolt being insecure. This is tightened up, but will eventually come loose again over time. This could account for the anomalies in the table for vehicles age 5-6, 8-9 and 11-12 where the screws work loose over time.

8.0 Table 7 – Hackney Carriage Vehicle Bodywork Results

HACKNEY CARRIAGE – BODY WORK						
A Age(yrs)	B Number of tests for BW according to age	C Number of tests passed BW Against column B	D % Tests Passed BW against column B	E Number of tests failed BW against column B	F Comparator April 2011-March 2012 % Failed BW against column B	G Comparator April 2009-March 2010 % Failed BW against column B from 2010 report
0-1	113	111	98.2%	2	1.8%	0
1-2	134	128	95.5%	6	4.5%	3.1%
2-3	156	141	90.4%	15	9.6%	2.8%
3-4	166	155	93.4%	11	6.6%	1.9%
4-5	273	253	92.7%	20	7.3%	3.4%
5-6	225	197	87.6%	28	12.4%	4.6%
6-7	193	154	79.8%	39	20.2%	13.4%
7-8	173	120	69.4%	53	30.6%	23.0%
8-9	148	98	66.2%	50	33.8%	32.8%
9-10	188	92	48.9%	96	51.1%	46.0%
10-11	85	36	42.4%	49	57.6%	79.3%
11-12	33	12	36.4%	21	63.6%	71.2%
12-13	4	4	100%	0	0.0%	66.3%
Total	1891	1501	79.3%	390	20.6%	21.5%

- 8.1 Table 7 above shows the vehicle inspection tests on hackney carriage vehicles from 01 April 2011 to 30 March 2012.
- 8.2 The table shows 1891 tests were carried out on hackney carriage vehicles and details the number and percentage of those vehicles, in relation to their age, that passed or failed on bodywork.
- 8.2 The results show that as a vehicle gets older the percentage of vehicles failing the test on bodywork increases.
- 8.3 Comparing the test results from April 2009/10 to April 11/12 shows an overall decrease in failure in relation to bodywork with a significant decrease in vehicles age 10-12. The comparison also shows that there was a significant increase in failure for vehicles less than 10 years of age. There is no definitive reason for this. The more frequent testing of vehicles aged 7 years and over,

could be a contributory factor. It may also be a contributory factor that in this current economic climate that money spent on bodywork issues is not as important as money spent on mechanical issues.

9.0 Vehicle Test Results – Private Hire Vehicles

9.1 In relation to private hire vehicles the most common items for failure indicated in the report of 31 August 2010 were in relation to front and rear suspension and body work. These items have been duplicated in this report for comparison. Tables 8 to 10 provide information in respect of overall inspection results and front and rear suspension results for private hire vehicles. To provide a comparison against hackney carriage vehicles Table 11 provides the data in relation to bodywork pass/ fails for private hire vehicles

10.0 Table 8 – Private Hire Vehicle Inspection Results

PRIVATE HIRE VEHICLE – Overall Inspection Results							
Overall TOTAL PASS/FAIL number of Tests for Period April 2011 to March 2012							
A Age (Yrs)	B Number of tests undertaken in relation to vehicle age	C % Age against total number tested (4875)	D Number passed in relation to age against total number tested	E % Passed in relation to age against total number tested	F Number failed in relation to age against total number tested	G Comparator April 2011-March 2012% Failed in relation to age against total number tested	H Comparator April 2009-March 2010 % Failed in relation to age against total number tested from 2010 report
0-1	211	4.7%	201	95.3%	10	4.7%	4.2%
1-2	204	4.6%	165	80.9%	39	19.1%	16.4%
2-3	389	8.7%	310	79.7%	79	20.3%	18.7%
3-4	824	18.4%	588	71.4%	236	28.6%	28.5%
4-5	980	21.9%	675	68.9%	305	31.1%	37.9%
5-6	1057	23.6%	670	63.4%	387	36.6%	43.0%
6-7	685	15.3%	400	58.4%	285	41.6%	49.8%
7-8	132	2.9%	79	59.8%	53	40.2%	55.6%
Total	4482	100%	3088	68.9%	1394	31.1%	41.3%

10.1 Table 8 shows the results from 1 April 2011 to 31 March 2012. During this period 4482 vehicle tests were carried out. The table shows the number of private hire vehicles tested in relation to their age against the total number of vehicles tested over the whole period.
Example: there were 211 vehicles age 0-1 tested, which equates to 4.7% of the total number tested. 201 (95.3%) of these passed their test and 10 (4.7%) failed.

10.2 The above table shows a correlation between the age of a vehicle and the frequency of vehicle test failure. There is an increase in the percentage of vehicles failing the mechanical inspection when compared with age.

10.3 The figures show a reduction in the failure rate for vehicles age 5 years and over, which correlates with the additional testing for vehicles over 5 years of age. There has been a substantial overall reduction of 10% in vehicles failing the vehicles inspection.

10.4 The figures also show an increase in the failure rate of vehicles 0-3 years of age.

11.0 Table 9 – Private Hire Vehicle Front Suspension Results

PRIVATE HIRE – FRONT SUSPENSION						
A Age(yrs)	B <i>Number of tests for FS according to age</i>	C <i>Number of tests passed FS Against column B</i>	D <i>% Tests passed FS against column B</i>	E <i>Number of tests failed FS against column B</i>	F Comparator April 2011- March 2012 <i>% failed FS against column B</i>	G Comparator April 2009- March 2010 <i>% failed FS against column B from 2010 report</i>
0-1	211	210	99.5%	1	0.5%	0.0%
1-2	204	200	98.0%	4	2.0%	0.0%
2-3	389	376	96.7%	13	3.3%	1.1%
3-4	824	789	95.8%	35	4.2%	2.9%
4-5	980	901	91.9%	79	8.1%	6.5%
5-6	1057	947	89.6%	110	10.4%	7.4%
6-7	685	585	85.4%	100	14.6%	12.7%
7-8	132	114	86.4%	18	13.6%	15.0%
Totals	4482	4122	91.9%	360	8.0%	8.5%

11.1 Table 9 shows the results of front suspension tests on private hire vehicles from 01 April 2011 to 30 March 2012.

11.2 The table shows 4482 private hire vehicles were tested and details the number and percentage of those vehicles, in relation to their age, that passed or failed on front suspension.

11.3 The table shows a steady increase in the number of vehicles failing on front suspension in relation to their age but an overall small 0.5% decrease in the failure rate against the failure rate of April 2010/11

12.0 Table 10 – Private Hire Vehicle Rear Suspension Results

PRIVATE HIRE – REAR SUSPENSION						
A Age(yrs)	B <i>Number of tests for RS according to age</i>	C <i>Number of tests passed RS Against column B</i>	D <i>% Tests passed RS against column B</i>	E <i>Number of tests failed RS against column B</i>	F Comparator April 2011- March 2012 <i>% failed RS against column B</i>	G Comparator April 2009- March 2010 <i>% failed RS against column B from 2010 report</i>
0-1	211	210	99.5%	1	0.5%	0.0%
1-2	204	203	99.5%	1	0.5%	0.4%
2-3	389	385	99.0%	4	1.0%	0.0%
3-4	824	814	98.8%	10	1.2%	0.7%
4-5	980	950	96.9%	30	3.1%	4.0%
5-6	1057	1005	95.1%	52	4.9%	3.7%
6-7	685	642	93.7%	43	6.3%	6.2%
7-8	132	121	91.7%	11	8.3%	6.8%
Totals	4482	4330	96.6%	152	3.3%	4.2%

- 12.1 Table 10 above shows the results of rear suspension tests on vehicles 1 April 2011 to 30 March 2012.
- 12.2 The table shows 4482 tests were carried out on private hire vehicles and details the number and percentage of those vehicles, in relation to their age, that passed or failed on rear suspension
- 12.3 The table shows an increase in the percentage of vehicles that fail their test on rear suspension in relation to their age with a significant increase in vehicles age 4-5 and above.
- 12.4 There is an overall failure decrease from 4.2% to 3.3% when the figures are compared to those of April 2010/11.

13.0 Table 11 – Private Hire Vehicle Bodywork Results

PRIVATE HIRE – BODY WORK						
A Age (yrs)	B <i>Number of tests for emissions according to age</i>	C <i>Number of tests passed Against column B</i>	D <i>% Tests passed against column B</i>	E <i>Number of tests failed against column B</i>	F Comparator April 2011- March 2012 <i>% failed against column B</i>	G Comparator April 2009- March 2010 <i>% failed against column B from 2010 report</i>
0-1	211	211	100.0%	0	0.0%	0.0%
1-2	204	198	97.1%	6	2.9%	3.0%
2-3	389	377	96.9%	12	3.1%	4.0%
3-4	824	797	96.7%	27	3.3%	3.0%
4-5	980	946	96.5%	34	3.5%	3.9%
5-6	1057	1017	96.2%	40	3.8%	6.8%
6-7	685	647	94.5%	38	5.5%	7.4%
7-8	132	119	90.2%	13	9.8%	10.0%
Totals	4482	4312	96.2%	170	3.79%	6.2%

- 13.1 Table 11 above shows the results of bodywork tests on vehicles 01 April 2011 to 30 March 2012.
- 13.2 The table shows that 4482 private hire vehicles were tested and details the number and percentage of those vehicles, in relation to their age, that passed or failed on body work
- 13.3 The table shows an increase in the percentage of vehicles that fail their test on bodywork in relation to their age with a significant increase in vehicles age 6-7 and above.
- 13.4 When the figures are compared with those of April 2010/11 significant decrease in failure rates can be seen for vehicles age 5-8 years.

14.0 Current Age Policy

- 14.1 Manchester City Council currently imposes age limits in respect of the licensing of Private Hire and Hackney Carriage vehicles. In general terms private hire vehicles are licensed for 7 years of age and hackney carriages [black cabs] are licensed up to 10 or 12 years of age dependent upon the emissions they produce. In addition the City Council allows for a vehicle to continue to be licensed if it is deemed to be in exceptional condition.

15.0 Test Result Analysis Hackney Carriage Vehicles

- 15.1 The detailed data provided in the report clearly demonstrates a correlation between the vehicle inspection failure rate and the age of vehicles.
- 15.2 In table 2 the overall figures show that the increase in failure rate significantly increases when a hackney carriage vehicles reaches the age of 6-7. This is mirrored in the figures in relation to the front and rear suspension and the bodywork.
- 15.3 The tables show that although there is still a significant failure rate, there has been a favourable impact since the introduction of the additional testing of hackney carriages that are over 7 years of age. Table 2 shows a reduction in failure rate of vehicles aged 7 years and over, when compared with the figures from April 2012/11.
- 15.3.1 Table 2 also shows a substantial increase in the vehicle failure for vehicles aged 0-2, there is also an increase in private hire vehicle failure for the same age range of vehicle but the failure increase for hackney carriage vehicles is more substantial. The reason for this may in part be due to the economic climate and a reduction in vehicle maintenance and can also in part be attributed to the increase in emission failure (hackneys) in this age range of vehicle.
- 15.4 In relation to the emissions at table 3 the results indicate a significant reduction in vehicles failing the emission test and when compared to the figures from April 2010/11 (25.2% down to 14.1%). This is marred by the significant increase in emission test failure for vehicles aged 1-2 years, which the vehicle inspector had indicated is due to problems, which have been experienced in relation to a number of TX4 vehicles that have experienced engines problems. The cause of which is unknown.
- 15.4.1 Officers have contacted colleagues from Transport for London (TFL), who are not aware of any issues in relation to the TX4. They have however previously carried out some investigations' into the use of oil in these vehicles in relation to performance. The vehicles run on synthetic oil and where proprietors do not use the correct oil the engines do not perform as specified by the manufacturer.

16.0 Test result Analysis Private Hire vehicles

- 16.1 The detailed data provided in the report clearly demonstrates a correlation between the vehicle inspection failure rate and the age of vehicles.
- 16.2 In table 8 the overall figures show that the increase in failure rate significantly increases when a private hire vehicle reaches 4-5 years of age. This is mirrored in the figures in relation to the front and rear suspension and the bodywork.

- 16.3 The tables also indicate that in comparison to figures from April 2010/11 the failure rate although still significant, has fallen by 10%.
- 16.4 Table 8 also shows that there has been an increase in test failure rate for vehicles aged 1-3. This is mirrored in the testing of front and rear suspension and bodywork. The current economic factor and a reduction in vehicle maintenance may be a factor in relation to this.

17.0 Contributing to the Community Strategy

- 17.1 (a) Performance of the economy of the region and sub region

Private hire and hackney carriage vehicles are a vital link in the transport system. The continued regular testing of taxis provides economic benefits to the industry surrounding maintenance of vehicles and provision of vehicle parts

- 17.2 (b) Reaching full potential in education and employment

The taxi trade continues to support employment. The maintenance of the current vehicle standards assists in maintaining a professional aspect to taxi driving.

- 17.3 (c) Individual and collective self-esteem – mutual respect

Manchester is known throughout the Country to have an exceptional taxi fleet. The maintenance of the current standard assists drivers to feel a sense of pride in both their profession and City.

- 17.4 (d) Neighbourhoods of Choice

The City Council's remit in licensing of hackney carriage and private hire vehicles is to ensure the safety of the public.

18.0 Key Policies and Considerations

- 18.1 (a) Equal Opportunities
Any proposed change in policy would require an Equality Impact Assessment

- 18.2 (b) Risk Management

- 18.3 (c) Legal Considerations

There are no legal considerations in relation to this report other than those already mentioned.

19.0 Conclusion

- 19.1 The additional testing of hackney carriage and private hire vehicles, which took effect from 1 April 2011, has had a positive impact on the number of vehicles failing their mechanical inspection test.
- 19.2 The results in the tables within the report provide evidence of a correlation between the age of a vehicle and the percentage of vehicles failing their mechanical inspection test. .
- 19.3 The results within the report support the continued testing frequency of three tests per annum for hackney carriage vehicles when they reach the age of 7 and private hire vehicles when they reach the age 5.
- 19.4 Table 4 indicates that the vehicles fitted with an emission reduction system are continuing to have a substantial test failure rate. Officers wish to investigate emission reduction in hackney and private hire vehicles further, especially in relation to the Council's Air Quality Reduction Plan.



National Association of Funeral Directors

10 September 2012

Public Law Team (Taxi and Private Hire)
Law Commission
Steel House
11 Tothill Street
LONDON SW1H 9LH

Dear Sirs

Reforming the Law of Taxi and Private Hire Services
Response to the Law Commission consultation paper No 203

Introduction

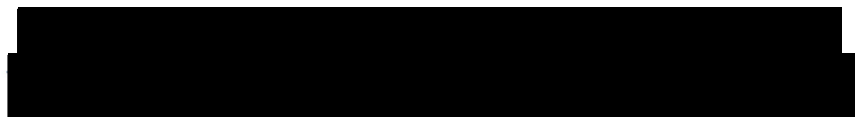
The National Association of Funeral Directors (NAFD) strongly believes that funerals should continue to be expressly excluded from private hire licensing. The current exemption for a vehicle hired in connection with a funeral, as set out in the Local Government (Miscellaneous Provisions) Act 1976, is clear, works in practice and does not need to be changed. If the exemption was removed, it would mean more red tape and see a dramatic increase in costs for funeral directors that would need to be passed on to the bereaved.

The use of the funeral limousine is ancillary to the funeral service itself (the main customer transaction). It is, therefore, inappropriate to class funeral vehicles alongside taxis and mini cabs, which are hailed from the street or called for when needed and are the main/sole service provided to the customer.

The NAFD is an independent Trade Association with the broadest membership within the funeral profession, including more than 3,500 funeral homes nationwide, suppliers to the profession and overseas funeral directing businesses. Member companies range from small family businesses to Public Limited Companies and Co-operatives, conducting in excess of 425,000 funerals every year equivalent to 80% of funerals. In 2005, we celebrated a Century of service to funeral directors and their clients.

Key Points

- The NAFD regularly meets with members of the UK Parliament and the National Assembly for Wales to discuss issues related to the sector. The exemption has never been a cause for concern amongst Parliamentarians we have met, nor been raised by their constituents.
- South Essex Insurance Brokers Ltd (SEIB) has been insuring funeral directors for over forty years and insures in the region of 80% of the Independent funeral industry vehicles. Its Funeral Directors' Motor Scheme has seen increases of 5% in premium rates in the last three years which demonstrates, from an insurance point of view, a very stable book of business, unlike the private hire business which has a very volatile claims experience and incurs rating increases regularly to counteract poor claims performance.



VAT No. 417 6942 31

The National Association of Funeral Directors is a member of the Trade Association Forum



INVESTOR IN PEOPLE

- SEIB insures around 10,000 funeral vehicles and, on average, incurs 50 personal injury claims per year. This equates to 0.5% of the overall number of vehicles it insures. These injury claims are generally own driver or third parties claiming. Only a very small proportion of claims - two or three per year - equate to the funeral director's actual passenger injury claims.
- Funeral vehicles collect mourners from a pre-arranged address and are driven in a dignified way. Funeral staff, unlike private hire vehicle drivers, do not arrive unaccompanied at all hours of the day or night. They act as a team, operating during mainly daylight hours.
- On average, funeral corteges travel at between 10 – 20mph - slower than the general flow of traffic on any particular road. The cars are highly recognisable and other road users treat funeral corteges with respect.
- It costs more than £600 to license one private hire vehicle and driver. Funeral firms would face bills running into thousands of pounds, plus hours of additional paperwork, to meet the new regulations if the exemption was lost.
- The funeral profession contains many small businesses which would be hit hardest if the exemption was removed.
- Funeral vehicles are naturally maintained to a very high standard due to the vital importance of delivering a dignified service to mourners.

Conclusion

The NAFD believes that current exemption for funeral vehicles, set out in the Local Government (Miscellaneous Provisions) Act 1976, should remain. We do not support proposal No11 included in the consultation document.

The funeral industry believes that it is bizarre, at a time of serious economic distress and the Government's desire to reduce red tape, that it would contemplate removing the exemption that would increase red tape and costs on the funeral industry. These costs would ultimately be passed on to the bereaved who would naturally conclude that this was a new tax on death.

If you require further information, please contact me at the address below or on 0845 230 1343 ext 20.

Yours faithfully



Alan Slater MBE
Chief Executive Officer

From: Keith Crampton [REDACTED]

Sent: 10 September 2012 13:49

To: TPH

Subject: Wedding Services and Classic Cars

Sir,

I am the owner of a sixty year old classic Armstrong Siddeley. It is first and foremost a hobby and an interest. It is used perhaps a dozen times a year as a wedding car. Its function in this regard achieves a number of positives. It adds a pleasurable dimension to a bridal couples day, it contributes to the continuation of our proud motoring heritage on our roads and not just in museums, it generates modest part time employment, it generates a modest income which goes towards the maintenance and preservation of a rare historical vehicle.

It is of course utterly ridiculous and typical of British mindless bureaucracy that such a quintessentially British wedding tradition should be adversely affected by private hire and taxi legislation, which at the very least will increase the cost of hiring such vehicles to a level which will prevent many couples being able to afford such a vehicle, and in the worst analysis will force such vehicles off the road certainly for wedding hire.

There is an irony that the last day on which I can object to the Law Commission's latest item of unnecessary and unjustifiable bureaucratic red tape, Mr Fallon MP has declared the intention of his department to remove or modify 3000 items of unjustifiable Health and Safety Regulation, recognising that such red tape, so similar to your own, can only damage any economic recovery and certainly contributes nothing to the quality of life of the nations citizens.

Yours faithfully

K D Crampton

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From: [REDACTED]
Sent: 10 September 2012 13:53
To: TPH
Subject: Limousine Licencing
Good afternoon

My name is Darren Lucking of M. Lucking & Sons Funeral Directors in Chelmsford, Essex.

We email you today to strongly oppose the proposed licencing of our funeral limousines. A funeral costs enough without adding a further charge to families that already find it hard to pay for the funeral.

Please reconsider the implementation of this idea.

Many thanks

Yours faithfully

Darren Lucking
[REDACTED]

This email was received from the INTERNET and scanned by the Government Secure Intranet anti-virus service supplied by Cable&Wireless Worldwide in partnership with MessageLabs. (CCTM Certificate Number 2009/09/0052.) In case of problems, please call your organisation's IT Helpdesk. Communications via the GSi may be automatically logged, monitored and/or recorded for legal purposes.

Reforming the Law of Taxi and Private Hire Services

Response from the Joint Committee on Mobility for Disabled People to the Law Commission consultation.

The Joint Committee on Mobility for Disabled People (JCMD), whose aim is “to promote the mobility of disabled people”, was established on 14 December 1961. It is neither a limited company nor a registered charity but an unincorporated umbrella body whose current membership comprises 22 national organisations of, for, or substantially involved with disabled people. There are also 5 individual members, all with extensive knowledge, experience, and involvement relating to mobility for disabled people.

The JCMD provides a forum for the informed discussion and consideration of the problems relating to mobility that are encountered by disabled people, in particular the attitudinal, environmental, technical, financial and legislative restraints that hinder disabled people travelling from place to place as part of daily living. Allied to that, the JCMD makes representations to government and other public bodies to promote action by them which will either assist disabled people to attain greater mobility or protect the degree of mobility they already possess.

Because of its remit, this response from the JCMD deals only with the access, mobility and related aspects affecting disabled people.

Introduction

The Equality Act 2010 (and before that the Disability Discrimination Acts of 1995 and 2005), requires that disabled people are not discriminated against on account of their disabilities in relation to a wide range of areas, including access to goods and services. While legislation making access to rail, bus/coach, and air transport a requirement for disabled people has long since been enacted, successive governments have (with the exception of London taxis) procrastinated for too many years over legislating to require mandatory taxi/PHV accessibility nationwide.

We welcome, therefore, this review by the Law Commission, but the accessibility issue must not be ducked again. The case to ensure that taxis and private hire vehicles throughout the country are appropriately accessible to disabled people, regardless of where they live, is an unanswerable one and the JCMD looks forward to strong recommendations to the government from the Law Commission to that effect. The present postcode lottery must be replaced by a unified and consistent accessibility requirement everywhere. Disabled people have a right to accessible taxis/PHVs and legislators have a duty to make that right a reality.

Responses to questions and provisional proposals

57 Should there be a separate licence category for wheelchair accessible vehicles?

Ultimately, (and when that should be is a matter for consideration), all taxis/PHVs should be wheelchair accessible. Accessibility should be the rule (as in London for taxis) and not the exception and, that being so, there would be no need or justification for a separate licence category. Even until universality is achieved, a separate licence would distinguish wheelchair passengers as not being the “norm”. The JCMD does not support the idea of a separate licence category.

The issues of giving priority to wheelchair users, and making provision at ranks for wheelchair accessible vehicles should not be linked to the issue of a separate licence category. For instance, a

high kerb area at a rank to assist wheelchair access as well as access for other mobility impaired passengers is something that should be a common practice. Giving pick-up priority to wheelchair passengers might appear attractive and humanitarian, but there are other aspects to prioritisation, particularly at ranks with irregular or slow taxi availability. For example, other waiting passengers might have more urgent need to be on their way. Attempts to regulate in these circumstances could be extremely difficult. It would probably be better to leave any prioritisation arrangements to informal resolution between waiting passengers themselves.

58 Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards?

For the same reasons given in our response to Question 57, the JCMD does not support lower licence fees. Accessibility should be entirely mainstream – a given, not a concession, and the incentive for providing it should not be monetary but the knowledge that the licensee is observing the law.

59 Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers?

History and the long struggle for improved access, services and facilities for disabled people – certainly in the UK – proves that they only come about when they are made a requirement with legal force; sad but true, and these would not be issues currently being consulted about were it otherwise. As previously argued, we need the legislation, and only then will it happen nationwide.

Of course, and we are happy to acknowledge this, there are now considerable numbers of taxis/PHVs with varying degrees of accessibility for disabled passengers. Local licensing authorities, to a greater or lesser extent, have laid down accessibility requirements, but, away from London and some of the other metropolitan areas, provision and availability of accessible vehicles can sometimes be a problem.

The JCMD agrees that no single vehicle is currently capable of satisfactorily catering for every impairment, which is why there needs to be a diverse range of taxis/PHVs, to enable meaningful choice for disabled passengers. Evidence from eg, Birmingham, Liverpool, Edinburgh and Belfast, and others, shows that a mixed fleet of traditional and more modern, more accessible vehicles, goes a long way towards meeting varying needs. That mixed market has only developed where local licensing authorities have created the right conditions for it to do so.

London, quite rightly, is lauded as the first place in the country where wheelchair accessible taxis were made mandatory. That, though, contrasts starkly with the largest PHV operator there whose fleet of more than 3,500 includes merely a handful which are wheelchair accessible.

We comment later on the London taxi position and its effects elsewhere.

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles.

As we have made clear, the JCMD calls for wheelchair accessible vehicles to be available throughout the country. The (ultimate) achievement of that would obviate the need for any quota system but, transitionally, there would be a need to ensure that adequate numbers of wheelchair accessible vehicles were available in every licensing authority area. There should not be a postcode lottery on accessible vehicles. Disabled people make up approximately 10% of the population and live everywhere. Wherever that may be, there should be accessible vehicle provision. The JCMD urges, therefore, that as an interim measure on the way to universality of accessible vehicles, at least minimal levels of provision, ie a quota, must exist throughout the country, with no area excepted.

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training

The JCMD agrees with this proposal, but the awareness must also be demonstrated in practice before the driver is accredited. For example, wheelchair passengers must be properly positioned and safely secured inside the cab. This is often not the case and JCMD members can recount the not insignificant numbers of occasions when (where appropriate) clamping of wheelchairs has not been carried out, seat belt extensions have not been provided and, most commonly of all, wheelchair passengers have been positioned sideways on instead of rearward facing – all highly dangerous. Drivers must demonstrate to the satisfaction of an authorised assessor, their knowledge and ability to ensure that disabled passengers are carried/seated safely. Refresher training and testing must also be undertaken at appropriate intervals.

While fully supporting the proposal, we know that there are often issues of compatibility where, for example, because of the size of the wheelchair and the physical features of the taxi, it may be impossible or almost impossible for the passenger/wheelchair to be correctly positioned and/or secured. This re-emphasises the need for a wide range of vehicles to be available and for licensing authorities to remove conditions which prevent otherwise suitable and perhaps even more suitable vehicles from being used.

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority.

The JCMD supports this proposal. The information should be prominently displayed and also available in alternative formats.

63 What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help?

We note that taxis are not under a general duty to stop when hailed. However, if their sign shows that they are plying for hire, they should be under a duty to stop, subject to it being safe, etc, to do so. Members of the JCMD have experience of taxi drivers choosing not to stop when they could have done so, and of the “for hire” sign being turned off on approach. Proving discrimination on the grounds of disability in such circumstances could be difficult, so a duty to stop must be introduced, and the onus of proving justification for not doing so would rest with the driver.

Comments on other issues

11.2

The JCMD agrees with the view of the Disabled Persons Transport Advisory Committee about the importance and flexibility of taxis to disabled people. That importance could become even greater as a result of the welfare reform agenda of the government which will result in substantial numbers of disabled people being no longer eligible for cars under the Motability scheme.

15.10

The JCMD agrees that national safety standards should be introduced and should also apply to the “disability” features of vehicles, and include vehicle accessibility. They should apply consistently and uniformly nationwide. However, any local authority discretionary powers must not be permitted to discriminate against disabled passengers by the imposition of conditions (eg turning circle) which would restrict the availability of accessible vehicles that they could use.

18.21

The turning circle requirement in the London conditions has resulted in a very restricted range there and elsewhere of wheelchair accessible vehicles. The Metrocab was the first taxi to offer wheelchair accessibility. Sometime later the new TX4 gave wheelchair accessibility, and much more recently, the Mercedes vehicle did likewise. It is not for the JCMD to provide a critique of these different taxis, suffice to say that the TX4 is by far the most dominant vehicle, but it has less wheelchair space than the other two and cannot, because of its design, safely accommodate large wheelchairs. In reality, many wheelchair passengers are being carried dangerously, either because of the physical features of the taxi making it impossible for them to be accommodated other than unsafely, or because of driver reluctance to position wheelchairs properly (in those cases where it is possible to do so) due to the effort/difficulty of achieving that. This is completely unsatisfactory, particularly since there are other safer wheelchair-friendly taxis which are excluded from the market because of the London conditions.

Safer travelling and easier access for passengers in wheelchairs should be the greater priority. However, the JCMD notes with concern and regret that all the Law Commission proposes over this conflict is to recommend “careful scrutiny” of it. With respect, we believe that this consultation is the place for the “careful scrutiny” and simply side-stepping the issue is not acceptable. We urge, therefore, that you strongly recommend that licensing requirements which discriminate against wheelchair passengers travelling safely and securely be removed.

Conclusion

Referring again to the fact that taxi/PHVs legislation in relation to access, etc, for disabled people has been long overdue, the JCMD urges the Law Commission to robustly champion this issue and make strong recommendations to give disabled people throughout the country the rights and choices to travel safely, comfortably and with dignity in vehicles which enable them to do that.

From: Richard Sprigg [REDACTED]
Sent: 10 September 2012 14:13

To: TPH

Subject: Licencing for wedding and funeral cars

Dear Sirs, Please reconsider lifting the exemption on wedding car licencing. Like many others, I run a fleet of two vintage motorcars which are occasionally used for wedding service. These cars are never intended to vie for trade at Heathrow or Stratford Railway Station, they are cherished historic vehicles which Brides like to hire in order to help make their day that little more special and memorable. If we were told to licence these vehicles and carry out other legislation as per Taxi Cabs we would be forced to stop operating and would not be able to continue in business. Thank you for your time, Richard Sprigg, R W Sprigg Chauffeured Classics, [REDACTED]

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From: tracey vassou [REDACTED]
Sent: 10 September 2012 14:16

To: TPH

Subject: wedding and funeral car hire

Dear Sirs
IF these new laws come in ,we will have to sell all our cars,can just abut afford to run them now, will then be unemployed like so
may other people in the wedding car and funeral buisness
If it aint broke dont fix it
Please dont make us unemployed
Tracey Vassou

This email was received from the INTERNET and scanned by the Government Secure Intranet anti-virus service supplied by Cable&Wireless Worldwide in partnership with MessageLabs. (CCTM Certificate Number 2009/09/0052.)
In case of problems, please call your organisation's IT Helpdesk.
Communications via the GSi may be automatically logged, monitored and/or recorded for legal purposes.

From: Steve Comer [REDACTED]
Sent: 10 September 2012 14:31
To: TPH
Subject: new legislation objection

Dear Sirs

I understand you are proposing new legislation for wedding cars, which form a minute part of road use and are usually of a vintage type.

Wedding hire for vintage cars is barely viable and most often hire costs just cover the insurance and some way toward the upkeep of these special vehicles. It will never be profitable and only for the real car enthusiasts who want to share their joy with others. You will be very unpopular by taking this special occasion away from the wedding couple, by imposing any change that will make this more difficult than it already is for the vintage vehicle owner to offer his car for the special occasion. Yours sincerely Nigel Stephen Comer

RESPONSES TO LAW COMMISSION CONSULTATION ON REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

<p>Provisional proposal 1</p> <p>Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares.</p> <p>Some Councillors were disappointed that a one tier system is not being proposed as that would eliminate a lot of the current conflict and confusion between taxis and private hire.</p> <p>However in general Councillors can see the merit in continuing the two tiers but the legislation and guidance must be strong enough to make clear the difference</p>
<p>Provisional proposal 2</p> <p>London should be included, with appropriate modifications, within the scope of reform</p> <p>Agree – will give national consistency</p>
<p>Provisional proposal 3</p> <p>The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver.</p> <p>Agree but pedicabs and horse drawn carriages do need regulating as they have safety issues. This is could be dealt with under separate legislation or left to local policy</p>
<p>Question 4</p> <p>Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence?</p> <p>Yes - this would give clear definition as which vehicles require licensing</p>
<p>Provisional proposal 5</p> <p>Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers.</p> <p>Agree – It gives clear definition as to which vehicles need taxi or private hire licence and</p>

<p>prevents duplication or vehicles 'slipping through' and not being licensed by either regime</p> <p>One Councillor has suggested that all vehicles carrying 6 or more passengers should be classified under a PSV License.</p>
<p>Provisional proposal 6</p> <p>References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis.</p> <p>Agree</p>
<p>Provisional proposal 7</p> <p>The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency.</p> <p>Agree</p>
<p>Provisional proposal 8</p> <p>The concept of "in the course of a business of carrying passengers" should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service.</p> <p>Councillors expressed the following views:</p> <p>The phrase "in the course of a business" is the problem .A clear definition of this phrase is wanting</p> <p>Some businesses where transport is ancillary will still have the same safety issues as taxis and private hire such and so should be regulated</p> <p>There will be safety issues wherever passengers are carried for example this applies to child minders taking children on trips and often making a charge. Agree that clear exemptions need to be indicated and believe that the guidance should be part of the legislation since the safety of passengers is involved</p>
<p>Question 9</p> <p>How, if at all, should the regulation of taxis and private hire deal with:</p> <p>carpooling; and</p> <p>No regulation needed as cost recovery only</p> <p>members clubs? (Page 170)</p> <p>Yes should be regulated. The examples given were seen to still be private hire and should be</p>

regulated. If exempted this could be used as a loophole by companies to avoid licensing
<p>Provisional proposal 10</p> <p>The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes.</p> <p>Agree</p>
<p>Provisional proposal 11</p> <p>Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation.</p> <p>General agreement. A Councillor expressed the view that funerals should continue to be excluded since more often than not; they are part of a funeral provision package.</p>
<p>Question 12</p> <p>Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse?</p> <p>No Merit - the contract exemption previously caused confusion and was used by many as a loophole from regulation and so Councillors do not think there is any merit in reintroduction. Councillors generally agree there should be clear exemptions listed of low risk cases such as childminders</p>
<p>Provisional proposal 13</p> <p>Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets".</p> <p>Agree - it should include all areas that public have access to</p>
<p>Question 14</p> <p>Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank?</p> <p>Yes – If airports have their own controls it discourages competition which could result in higher prices for the customers</p> <p>A Councillor expressed the view that recent concerns about the inconvenience caused by airports who have their own controls have increased. This is due to the fact that this system is believed to have resulted in higher prices and has disadvantaged disabled passengers who now have limited access to appropriate vehicles. Thus support the proposal</p>

<p>Provisional proposal 15</p> <p>The defining feature of taxis, the concept of “plying for hire”, should be placed on a statutory footing and include:</p> <p>(a) references to ranking and hailing;</p> <p>(b) a non-exhaustive list of factors indicating plying for hire; and</p> <p>(c) appropriate accommodation of the legitimate activities of private hire vehicles.</p> <p>Agree</p>
<p>Provisional proposal 16</p> <p>The concepts of hailing and ranking should not cover technological means of engaging taxi services.</p> <p>Advances in technology means that a taxi can be pre-booked almost immediately to the commencement of the journey. This causes confusion between hailing and pre-booking as to the customer they seem almost the same. Although hailing and ranking do not require technological means they should be referred to in the guidance to make it clear</p>
<p>Question 17</p> <p>Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”</p> <p>No - this would lead to further confusion. A call can be made in the street on a mobile to book through an operator sat in a private hire vehicle parked in the street</p>
<p>Provisional proposal 18</p> <p>The concept of compellability, which applies exclusively to taxis, should be retained.</p> <p>Yes - but there should be reasonable grounds for refusal on grounds of safety or prevention of crime</p> <p>This is a difficult question. Councillors would wish to safeguard the rights of the individual but how do you protect the driver from drunken behaviour which ends in violence. Warnings exhibited in the vehicles may not be enough</p>
<p>Provisional proposal 19</p> <p>Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked.</p>

<p>Agree</p>
<p>Provisional proposal 20</p> <p>Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.</p> <p>Disagree for taxis. Councillors had mixed views for private hire. However for both types it makes enforcement very difficult</p>
<p>Provisional proposal 21</p> <p>The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements.</p> <p>Agree</p>
<p>Provisional proposal 22</p> <p>Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned.</p> <p>Agree</p>
<p>Question 23</p> <p>Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion?</p> <p>Councillors had mixed views – on one hand it will just continue the lack of understanding of the customer of the two tiers however on the other hand it can be argued that the only issue that is relevant to the customer is which vehicles must be pre booked. In fact it may be better to remove the term private hire which is meaningless to the customer and replace with pre-booked only</p> <p>A Councillor also expressed the view that this would continue to cause confusion and that the term “pre-booked” should be used for private hire vehicles</p>
<p>Provisional proposal 24</p> <p>Taxi and private hire services should each be subject to national safety requirements.</p> <p>Agree</p>
<p>Provisional proposal 25</p> <p>National safety standards, as applied to taxi services, should only be minimum standards.</p> <p>Agree</p>

<p>Provisional proposal 26</p> <p>National safety standards, as applied to private hire services, should be mandatory standards.</p> <p>Agree - but the dependant on correct level being set</p> <p>One Councillor stated that tighter legislation and enforcement is needed to keep a check on Stretch Limousines and vehicles used for Novelty purposes</p>
<p>Provisional proposal 27</p> <p>Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers.</p> <p>Councillors had mixed views – some agreed but some disagreed and felt there should be discretionary ability for additional standards such as test on understanding of the legislation by drivers</p>
<p>Question 28</p> <p>Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable?</p> <p>Agree for signage.</p> <p>Some Councillors thought other local standards should be permitted such as age policy for vehicles.</p>
<p>Question 29</p> <p>What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles?</p> <p>Currently there is a large range of standards; these have partly come about due to socio/economic divides between regions and different geographical expectations. For example there is a different expectation of a city taxi to a rural taxi</p>
<p>Question 30</p> <p>Should national conditions in respect of driver safety be different for taxi services compared with private hire services?</p> <p>No</p>
<p>Provisional proposal 31</p> <p>The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should only cover conditions relating to safety.</p> <p>Depends if there is local discretion to add conditions. If no discretion then there should be</p>

<p>mandatory conditions relating to comfort and cleanliness of the vehicle</p> <p>A Councillor also felt that there should be some guidance on assisting passengers</p>
<p>Provisional proposal 32</p> <p>The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement.</p> <p>Agree</p>
<p>Question 33</p> <p>What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel?</p> <p>Should be some national consultation on general principles</p> <p>Agree to technical advisory panel for specific details</p> <p>More detailed information on this panel is needed. Would it be a national or local body? How would it be constituted?</p>
<p>Provisional proposal 34</p> <p>Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards.</p> <p>Agree</p>
<p>Question 35</p> <p>Should there be statutory limits to licensing authorities' ability to set local taxi standards?</p> <p>Disagree – should be at authority's discretion</p>
<p>Question 36</p> <p>Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators?</p> <p>Yes – it enables authority's to deal with specific problems or issues for example extra medical checks for those with a medical condition</p>
<p>Question 37</p> <p>Should the powers and duties of licensing authorities to cooperate be on a statutory</p>

<p>footing or is it best left to local arrangements?</p> <p>Local arrangements</p>
<p>Provisional proposal 38</p> <p>Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting.</p> <p>Agree</p>
<p>Provisional proposal 39</p> <p>Licensing authorities should have the option to create, or remove, taxi zones within their area.</p> <p>Agree</p>
<p>Question 40</p> <p>Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority?</p> <p>Disagree – will lead to confusion to the public. Also licence fees would have to be the same as the local authority process to check safety of driver and vehicle is the same if operates full time or peak time only. This means there is no incentive to the licence holder to apply for peak time only.</p>
<p>Provisional proposal 41</p> <p>Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority.</p> <p>Agree to first part as technology makes this impracticable</p> <p>Second part would be appropriate if there are mandatory standards, however, if there are additional discretionary standards this would not be practicable</p>
<p>Provisional proposal 42</p> <p>We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs.</p> <p>Agree</p>
<p>Provisional proposal 43</p> <p>Licensing authorities should retain the ability to regulate maximum taxi fares.</p>

Licensing authorities should not have the power to regulate private hire fares.

Agree – however it would be useful to have more nationally consistent method of calculation. Currently the fares vary so much in times of tariffs and methods of calculation that it is difficult for the customer to understand and to compare

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys?

Councillors had mixed views. Some feel yes if outside the licensing authority's area. In rural areas, drivers often have to travel a long distance empty to get to the pick up point – at the moment they can only start the meter at the point of pick up which means the metered fare does not reflect their actual costs in fuel and time for that journey, and also providing they follow guidance on communicating this possibility to the customer with reasons before the start of the journey

Question 45

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions? (

Agree with (b) – Easier to update and amend standards if under general powers

Provisional proposal 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself.

Agree

Question 47

Should national vehicle safety standards be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions?

Agree with (b) – Easier to update and amend standards if under general powers

<p>Provisional proposal 48</p> <p>Operator licensing should be retained as mandatory in respect of private hire vehicles.</p> <p>Agree – this is needed to ensure pre -bookings are recorded</p>
<p>Question 49</p> <p>Should operator licensing be extended to cover taxi radio circuits and if so on what basis?</p> <p>Yes – this would ensure that companies operating this way are accountable to their customers and enables licensing authorities to have a regulatory control and a requirement to be placed on them to keep records</p>
<p>Provisional proposal 50</p> <p>The definition of operators should not be extended in order to include intermediaries.</p> <p>Agree – the organisation that actually accepts the booking should be the one that is the operator. An intermediary acts as a link to the operator but ultimately it should be the operator that agrees to undertake the booking</p>
<p>Question 51</p> <p>Should “fit and proper” criteria in respect of operators be retained?</p> <p>Agree – there is potential for crime including fraud and as such the operator should be vetted, but there remains a need for a clearer definition of this requirement</p>
<p>Provisional proposal 52</p> <p>Operators should be expressly permitted to sub-contract services.</p> <p>Agree</p>
<p>Question 53</p> <p>Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply?</p> <p>Yes</p>
<p>Provisional proposal 54</p> <p>Licensing authorities should no longer have the power to restrict taxi numbers.</p> <p>Councillors generally disagree due to the fact that the removal of this restriction could lead to the problem of an increase in congestion and pollution. This is unacceptable if there are</p>

sufficient vehicles to serve the area's needs. More evidence is needed on all aspects of this issue

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers?

Over-ranking causing traffic obstructions

Increased taxis leading to traffic congestion in town centres

Explosion in numbers of taxis. This may level out after a period of time however it could lead to reduced work and income for existing drivers. A reduction in income could lead to drivers 'cutting corners', for example in vehicle maintenance, or working longer hours at the risk of driver tiredness, in order to make a living

Councillors are aware that some authorities currently use the ability of restricting taxi numbers to only allow additional licences to wheel chair accessible vehicles. If the ability to restrict numbers is lost the number of wheel chair accessible vehicles may fall

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed?

Councillors had mixed views - some felt staggered entry would merely make longer a difficult transition whereas others felt it would prevent a sudden increase in numbers

Question 57

Should there be a separate licence category for wheelchair accessible vehicles? This could involve:

(1) a duty on the licensee to give priority to disabled passengers; and

(2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles.

Yes in principle however duty on the licensing authority to provide ranks should be limited to reasonable provision as for some locations the layout of the buildings and streets in town centres would make this difficult

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards?

Yes

<p>Question 59</p> <p>Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers?</p> <p>Councillors generally agree that such vehicles are more expensive to operate and maintain compared to non accessible vehicles. A reduction in licence fee is unlikely to be much of an incentive. Tax relief or subsidies may help</p>
<p>Provisional proposal 60</p> <p>We do not propose to introduce national quotas of wheelchair accessible vehicles.</p> <p>Agree</p>
<p>Provisional proposal 61</p> <p>National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training.</p> <p>Agree</p>
<p>Provisional proposal 62</p> <p>In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority.</p> <p>Agree</p>
<p>Question 63</p> <p>What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help?</p> <p>It would be very difficult to enforce an obligation to stop. Training and awareness may be more appropriate or as part of the penalty points system</p>
<p>Question 64</p> <p>Should authorised licensing officers have the power to stop licensed vehicles?</p> <p>Yes</p>
<p>Question 65</p> <p>What more could be done to address touting? Touting refers to the offence “in a</p>

<p>public place, to solicit persons to hire vehicles to carry them as passengers”.</p> <p>Councillors are not sure whether touting is an issue of concern. However clearer guidance and better awareness</p>
<p>Question 66</p> <p>Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules?</p> <p>No – local authorities are not likely to have facilities to store vehicles and having responsibility for such vehicles once impounded could be problematic</p>
<p>Question 67</p> <p>Should licensing authorities make greater use of fixed penalty schemes and if so how?</p> <p>Yes for minor offences such as not wearing badge</p>
<p>Provisional proposal 68</p> <p>Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas.</p> <p>Agree</p>
<p>Question 69</p> <p>Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this?</p> <p>The lack of consistency in the application of enforcement causes concern. It was suggested that powers should extend to suspensions and revocation and that option 2 in the main document (Formal procedure for cross border enforcement) may be the best way forward</p>
<p>Provisional proposal 70</p> <p>The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence.</p> <p>Agree</p>
<p>Provisional proposal 71</p> <p>The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision.</p> <p>Councillors had mixed views - some disagreed as it was felt this would mean that it is likely that every decision to refuse, suspend or revoke would be challenged and have to be</p>

reheard.
Provisional proposal 72 Appeals should continue to be heard in the magistrates' court. Agree
Question 73 Should there be an onward right of appeal to the Crown Court? Disagree

In addition to the proposals and questions, additional comments were made in relation to CRB's as part of Driver's standards:

That a full Police CRB should be submitted for Licensing purposes by all foreign nationals in place of the current practice of a letter from their Embassy being submitted being submitted in support of a license application.



Law Commission

REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

(Consultation Paper No 203)

Consultation response by The Guide Dogs for the Blind Association

Response prepared by:

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INTRODUCTION

The Guide Dogs for the Blind Association (Guide Dogs) welcomes the opportunity to comment on the Law Commission's proposals for reform of the law with regard to taxis and private hire vehicles.

About Guide Dogs

We are experts in the area of mobility for blind and partially sighted people and our work has been transforming the lives of many thousands of blind and partially sighted people on a daily basis for over 80 years. Our core service is the guide dog service which essentially involves the training and provision of assistance dogs to blind and partially sighted people and working with both guide dog and owner to create a successful partnership through which the individual can become as independently mobile as possible, getting out and about safely and with confidence. We also offer other mobility services such as long cane mobility training, and sighted guiding.

As well as providing direct services, we seek to break down barriers to independent mobility. Sometimes these are physical (such as poorly designed built environment) and sometimes attitudinal. We do this through a range of activities such as traditional campaigning, or engaging with those responsible for the development of public policy. We also carry out and commission research, including social research into the everyday experiences of blind and partially sighted people.

Why are we responding?

Blind and partially sighted people are unable to drive, and as bus travel often presents major barriers to mobility (such as being unable to read bus numbers, and in the absence of on board announcements, not always being sure when to disembark) they are disproportionately more dependent on taxis and private hire vehicles than their peers.

Despite gains made through the Disability Discrimination Act (subsumed into the Equalities Act), taxi travel continues to be a frequent source of difficulty for many blind and partially sighted people. Such journeys constitute one of the most common sources of complaints coming into Guide Dogs about access issues. We therefore welcome this chance to comment on proposals for reform of the law.

The remainder of this response sets out our thoughts and recommendations on several of the provisional proposals which appear in the main consultation documents and answers to questions. We would be happy to clarify any of the points we make. Contact details are given not only on the cover sheet but also at the end of this response.

RESPONSES TO SPECIFIC PROPOSALS AND QUESTIONS

Chapter 13

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. (Page 160)

Guide dogs welcomes any model of regulation which potentially offers a range of services to blind and partially sighted people, however, with the incumbent problems related to distinguishing the particular characteristics of some services through the type of vehicle used and signage displayed, we do recognise the importance of clear distinction between services for the benefit of the end user, especially if the person wishing to avail themselves of a taxi or private hire service is blind or partially sighted with the obvious limited vision that encompasses.

Chapter 14 – reform of definitions and scope

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. (Page 162)

Guide Dogs welcomes measures which unify any regulation, so that blind and partially sighted people can expect consistency in the service offered and received in their use of taxis and private hire vehicles wherever they travel across England and Wales.

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. (Page 164)

Guide Dogs is aware that one of the problems faced by guide dog owners, and possibly other assistance dog owners, is of the provision made for them with differing types of transport service. We know anecdotally that variations of private hire and taxi services can create problems with regard the accommodation of an assistance/guide dog within the vehicle. Added to which, more specialist services can be harder to challenge or book in the first place, with the potential for unlawful added costs with regard the accommodation and cleaning incumbent on an operator accommodating a dog. Anything that simplifies and streamlines responsibilities and rights when booking private hirer services would hopefully mitigate these problems.

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. (Page 165)

Guide Dogs recognises the challenge faced by some people when differentiating between types of public service vehicles, and our experience is that some service providers will hide behind the confusion or not be aware of their obligations with regard their private hire or public service licensing or duty. Therefore, we think public service is an appropriate term to define vehicles or services which are for public use, within which the method of hiring or payment for a service, public, private or taxi should be determined for any size of vehicle, dependent on its use.

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. (Page 167)

Yes.

Provisional proposal 8

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. (Page 168)

Guide Dogs is aware of problems arising, especially with its own staff, for example, when during the course of their work, they drive a blind colleague and by definition as a salaried employee, are paid for doing so. This has been open to interpretation by DWP who did advise at one point that those people should have some form of private hire licence. We have also been aware of this happening in other contexts, for example with local charities where drivers pick blind and partially sighted people up to take them to clubs or other community facilities, as they are sometimes paid to do so and it is not a job they would do for any other group or individual. We would therefore welcome clearer distinction of roles and responsibilities in terms of licensed provision.

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. (Page 171)

Guide Dogs is happy with this proposal as long as it considers how exclusions are communicated to the end user. It is hard or near impossible for many blind and partially sighted people to see what is written on vehicles or to determine the exempted state of a vehicle or driver from visual cues. Therefore, any exclusions made need to be clearly communicated in a way which is accessible to people with print impairments and who don't have access to normal visual cues with regard the status of a vehicle or its use.

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. (Page 172)

Guide Dogs welcomes this if it reduces any ambiguity with regard the rights of blind and partially sighted people, especially those working a guide dog and wishing to travel in vehicles used in transport for weddings and funerals.

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets". (Page 17)

Guide Dogs' experience is that many blind and partially sighted people find it hard to determine the designated status of the environment they are situated in when booking or hiring taxi or private hire services. This is potentially important when having to take action against a service provider in being aware of the status of the place they were taking the vehicle from. Anything which reduces the burden on blind and partially sighted people in relation to their environment at the time of booking is welcome.

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. (Page 181)

Guide Dogs is aware that some blind and partially sighted people may use technological methods under discussion to ease the process of booking a vehicle. It would therefore be a shame if strategies used by some people to circumvent the limitations of their disability were deemed illegal, especially as more traditional methods may be less accommodating to people with severe sight loss.

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved. (Page 184)

Guide Dogs would like to ensure that there is no way in which the use of vehicles for leisure or non-professional use could constitute grounds for the refusal of a person accompanied by a guide or assistance dog. We are aware of examples of drivers refusing guide dog owners because they claimed the vehicle is used for their family at weekends and their children are allergic to dog hair.

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements. (Page 185)

Guide Dogs welcomes this if it strengthens in any way the rights of guide dog owners and other assistance dog owners and their legitimate use of taxis and private hire vehicles. We would be happy to contribute to or be involved in the development of guidance in relation to guide dogs and other assistance dogs.

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned.

(Page 185)

Yes.

Question 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion? *(Page 186)*

Yes, Guide Dogs is aware, from its interaction with blind and partially sighted people, that there is confusion when people describe the type of service being complained about. People who contact us don't always distinctly indicate or understand the difference in the services on offer and the type of service they requested. They more than often refer to taxi or minicab in their communication with us.

Chapter 15 – a reformed regulatory framework

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements. *(Page 188)*

Guide Dogs welcomes anything in the provision of public services which standardises minimum standards with regard safety of passengers as well as vehicles. This would to some degree pull taxi and private hire vehicles in to line with buses and trains.

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards. *(Page 189)*

Yes.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. *(Page 189)*

Guide Dogs welcomes anything in regulation to taxi and private hire services which generates consistency and uniformity in the service provided and the standard to which it is provided.

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers. *(Page 190)*

Guide Dogs would have some concern with this approach. The majority of blind and partially sighted people who use taxi and private hire services are reliant on the driver to know where they are going. Many sighted people may be able to see what is happening outside the vehicle, which may help them in familiar areas when challenging driver decisions, which is not in the gift of people with sight loss. Therefore some degree of knowledge on behalf of the driver is essential. This is possibly more pertinent when drivers might use lack of knowledge as an excuse to charge more for a journey on the occasion of taking a longer route through lack of knowledge of the area, which may be hard for blind people to challenge.

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety. (Page 192)

No. Guide Dogs feels that there are aspects of taxi and private hire use which would benefit from standards expected of all drivers.

1. Guide Dogs would like to see a minimum standard set with regard driver training in disability awareness which explicitly covers the rights in law of guide dog and other assistance dog owners to make journeys with their dogs. Leaving this up to local authorities fragments the knowledge of drivers and leads to inconsistencies in the level of understanding they have and the service offered.

2. This should include effective communication with guide dog owners. We are aware that councils tend to specify a requirement for drivers to be conversant in the English language and we would support this being incorporated into national standards. This should include adequate levels of literacy too. However, command of the English language only addresses one aspect of the communication needs of guide dog owners. By definition, they are unable to see and so often depend on clear and unambiguous directions from the driver. For instance, if a driver simply points and instructs the passenger that their destination is "over there", whilst not necessarily a safety issue – it would certainly not constitute good customer care, and could be considered to be discriminatory as a sighted passenger would find it much easier to follow such directions. So we would argue that it is a pre-requisite that drivers should be able to communicate effectively with all passengers but especially with those who have visual impairments or other disabilities where clear and unambiguous directions are essential.

3. Any standard set for the accommodation and handling of wheelchair users should also encompass appropriate driver training with regard to the accommodation within the vehicle and handling of guide dogs and other assistance dogs. Not only in the way the dog should be handled, but in the appropriate location of the dog in a vehicle. Guide Dogs occasionally receives reports from guide dog owners who have had unrealistic expectations from taxi and private hire drivers with regard to where in a vehicle the dog should be placed and the types of surfaces those dogs have been expected to use in a vehicle, for example, the dog being placed on the bare metal work of a vehicle because carpets and rubber matting had been removed.

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. *(Page 193)*

Yes.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. *(Page 193)*

Guide Dogs is happy with this, as long as it doesn't impact on the minimum standards for disability related need in the use of taxi and private hire vehicles. The problem could be where two local authorities set differing standards in an area where there is cross border traffic, especially if passengers travelling in vehicles from one area have less a standard of service than passengers in a neighbouring LA controlled area. However, this would work if minimum standards were affective in their provision, in areas like the support and accommodation of disabled people.

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? (Page 194)

Guide Dogs welcomes this if it is used, for example, in sanctions where operators and drivers have continued to flout the law and the level of service they have provided to disabled passengers or guide dog owners. In this case it could be used to enhance the basic standards expected and incentivise driver and operator standards.

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (Page 200)

No. In Guide Dogs' experience, it is not easy for a passenger to determine the likelihood of extra charges incurred above and beyond the metered fare, unless specifically stated at the time of booking. Especially if such notification is written that would exclude it from the view of most blind and partially sighted passengers. (We are aware that some councils permit drivers to impose an additional fuel surcharge over and above the metered fare which may be indicated on a notice inside the vehicle). Charges should always be fair and transparent.

Chapter 16 – reform of driver, vehicle and operator licensing

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. (Page 207)

Yes. Guide Dogs feels that this would be beneficial in situations where it was the operator, not the driver, who is in contravention of things like the Equality Act with regard the provision of services for people travelling with a guide dog or other assistance dog.

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? *(Page 208)*

Yes. Again Guide Dogs has concerns with regard to the potential conduct of a radio circuit operator as opposed to a driver, when understanding the rights and obligations of drivers carrying people and their guide dogs and other assistance dogs.

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. *(Page 209)*

Guide Dogs is happy with this as long as it doesn't negate an intermediaries responsibility or obligation to the information provided and service offered to people with guide or assistance dogs.

Chapter 17 – reforming quantity controls

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? *(Page 213)*

Guide Dogs' only concern in relation to this issue is for the numbers of vehicles of certain categories. For example, if an unlimited number of vehicles of a non-accessible standard came on to the books, this could potentially have an impact on the number of accessible vehicles available to disabled passengers.

Chapter 18 – taxi and private hire reform and equality

Question 57

Should there be a separate licence category for wheelchair accessible vehicles? This could involve:

(1) a duty on the licensee to give priority to disabled passengers; and

(2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. *(Page 217)*

Guide Dogs welcomes any measure which has the potential to better support the needs of blind and partially sighted people, especially those who are accompanied by their guide dog.

If provision like this has the potential to make available more vehicles suited to the extra space needed to accommodate a guide dog, this would be a positive move.

If provision like this also enhances the ability of the Local Authority with regard the refusal to take guide and other assistance dogs and the enhancement of the LA to impact on drivers who pull away from the rank when a guide dog approaches, Guide Dogs is in support of this measure, assuming it genuinely covers all disabled groups not just wheelchair users.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? *(Page 217)*

This is an excellent proposal. Guide Dogs welcomes any incentive used to promote the use of vehicles which better accommodate the needs of disabled passengers, especially those accompanied by a guide or assistance dog.

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? (Page 217)

Guide Dogs has the following suggestions in relation to the above question:

1. to work towards national standards for and implementation of accessible talking taxi meters. This would ensure a blind or partially sighted passenger could have independent access to and review of metered fares.
2. to ensure that all licensed vehicles have non visual ways of identifying the licence number of the vehicle and /or driver. Many blind and partially sighted people fail to accurately report drivers in relation to their rights as they are unable to see any qualifying elements of the driver or vehicle in a dispute, putting them at a disadvantage to other passengers or other disabled groups.
3. To encourage drivers and operators to use vehicles appropriately in their accommodation of guide and assistance dogs. Some anecdotal evidence suggests that guide dog owners are being put under unrealistic expectations when travelling in some vehicles. One example is of a taxi driver who insisted in removing the carpet from the estate portion of his vehicle, expecting the guide dog to sit on metal components of the vehicle, which are slippery and uncomfortable for the dog and distressing for its owner.
4. That any adoption of regulations with regards the use of technology in booking a taxi or private hire vehicle, doesn't disadvantage blind and partially sighted people in the proscription of its use. In effect, we could be asking authorities, operators and drivers to innovate, especially if it makes the process of booking and making a journey easier for some disabled groups.

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. (Page 219)

Guide Dogs strongly welcomes this move. We know from anecdotal evidence and the work we have done with some local authorities that this is very effective in raising driver awareness. We notice that much of the awareness centres around wheelchair access, so would encourage a significant proportion of the focus to centre on the support to be offered to blind and partially sighted passengers and more structured work on driver provision for guide dogs. Again, as with other areas, we would be happy to offer guidance on this.

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. (Page 219)

Guide Dogs welcome this move. However, we would like this implementation to encompass alternative measures to support the needs of passengers who don't or can't read printed text. These measures would not be affective, for example, if a blind passenger has a problem with a driver and that driver refuses to aid them in reporting the issue, by providing registration or LA contact details.

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? (Page 220)

Whilst Guide Dogs welcomes any move to ensure the problem doesn't arise, we are aware that reporting of this type of incident is exacerbated by a blind or partially sighted person's ability to determine any characteristics of the vehicle concerned, including registration details. Perhaps a significantly higher fine or sanction would help, especially when other sighted people can help a blind passenger in this situation. Maybe this would then send out a message to drivers that failing to stop or pull away because a blind person is trying to avail themselves of their service has impacting consequences. In an ideal world, there would be a system of monitoring in place such a CCTV coverage of taxi ranks that could provide evidence in discrimination cases. Whilst it is not always easy to prove that a driver has deliberately ignored a blind or other disabled passenger – systems which aid the identification (and prosecution) of perpetrators could have a significant deterrent effect.

Chapter 19 – reforming enforcement

Question 64

Should authorised licensing officers have the power to stop licensed vehicles? (Page 222)

Yes, if this goes some way to mitigate some of the problems disabled people have with taxis and private hire vehicles and the attitudes of some drivers.

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas.
(Page 225)

Yes, again this may strengthen any support needed by disabled passengers in relation to the inappropriate conduct of operators, drivers and the suitability of their vehicles.

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Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept prebooked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares.

This proposal is supported. There have been proposals for a single tier approach, but this is likely to result in a decline in the number of wheelchair accessible vehicles. Suggestions that this could be prevented by offering more prestigious ranks are unlikely to be successful, particularly as many are outside the control of the licensing authority, such as at railway stations.

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver.

This proposal is supported.

Question 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence?

This could cause confusion and lead to unsuitable services being provided, such as pedicabs, that in an unregulated environment could be dangerous either in terms of road use or personal safety of passengers. For instance drivers not regarded as fit and proper under the regulated regime could operate in the unregulated regime.

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers.

This proposal is supported

Provisional proposal 6

References to stage coaches charging separate fares should no longer feature as an exclusion from the definition of taxis.

This proposal is supported.

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency.

This proposal is supported.

Provisional proposal 8

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service.

There seems to be an inconsistency in the proposal to exempt activities where transport is ancillary to the overall service and the proposal in Paragraph 14.41 to include wedding and funeral cars in the regime. These businesses are not a fundamental part of the taxi and

private hire trade, but if there is an intention to exclude some businesses then this needs to be done on a clear, rational and consistent basis.

Question 9

How, if at all, should the regulation of taxis and private hire deal with:

- (a) carpooling; and
- (b) members clubs?

Carpooling should be excluded from the regime, but hire by members clubs should not.

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes.

This proposal is supported.

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation.

See the answer to Question 8 above.

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse?

The contract exemption provided means for some business to be excluded from effective regulation applied to other businesses. There is no evidence that the removal of the exemption has imposed an unnecessary burden. The removal of the contract exemption should therefore continue.

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets".

This proposal is supported.

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank?

Leicester City is not provided with an airport and no view is taken on this matter.

Provisional proposal 15

The defining feature of taxis, the concept of "plying for hire", should be placed on a statutory footing and include:

- (a) references to ranking and hailing;
- (b) a non-exhaustive list of factors indicating plying for hire; and

(c) appropriate accommodation of the legitimate activities of private hire vehicles.

This proposal is supported.

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. *(Page 181)*

This proposal is supported.

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”?

The difficulties with this approach identified in the legislation suggest this approach would not be appropriate.

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained.

This proposal is supported.

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked.

This proposal is supported.

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.

The existing legal position in which only licensed drivers can drive taxis and private hire vehicles should be retained. If this requirement is removed, enforcement in relation to unlicensed drivers becomes very difficult and activity by unlicensed drivers is likely to increase, putting passengers at risk.

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements.

This proposal is supported.

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned.

The difficulty with this approach is that although it may make drafting the legislation difficult, the public generally use the term ‘taxi’ to cover both hackney carriages and private hire vehicles. Removing the term ‘hackney carriage’ would cause communication difficulties when trying to ensure ‘taxi’ was interpreted correctly as excluding private hire vehicle. It is suggested that the term ‘hackney carriage’ should be retained.

Question 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “prebooked” and did not otherwise lead to customer confusion?

There is no justification for doing this and it is suggested that the prohibition should remain in the interest of clarity.

A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements.

This proposal is supported.

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards.

This proposal is supported.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards.

This proposal is supported.

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers. *(Page 190)*

There is a danger that a one size fits all approach will mean that in some cases too onerous a standard will be applied and in other cases, local authorities will not have powers to deal with local problems. It is argued that local authorities should retain the power to set additional standards within a broad framework. For instance in some cases there may be a need to have a local topographical knowledge test, even for private hire drivers. Following satellite navigation systems may not always give the best customer experience or best advice on routes, destinations or where the customer is uncertain about their exact destination in all circumstances.

An example of a local standard which may need to be imposed is the driver's standard of spoken English. This was perceived by passengers to be a particular problem in Leicester and is now the subject of a pre-licensing assessment.

Many local authorities offer only a combined hackney carriage and private hire driver's licence. This has benefits for both the local authority in terms of efficiency and drivers who often change between the two modes. If only national standards apply to private hire vehicles, but local standards can apply to hackney carriages this approach will not be possible.

There is also a danger that hackney carriage operators will feel that they are unfairly targeted by having additional local standards, whilst private hire vehicles do not. Hackney carriages are required to provide more expensive wheel chair accessible vehicles. If the

differential between the two standards appears to be too great, the proportion of accessible vehicles may decline.

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable?

Local standards for private hire vehicle signage should be retained. Local authorities are required to ensure hackney carriages and private hire vehicles can be differentiated. The design of signage at a local level may need to take account of the appearance of local hackney carriages. Other factors such as vehicle colour can also be an important consideration.

As explained above, vehicle age should also be able to be set locally. This has an important influence on the standards achieved by the fleet in a number of areas including safety, reliability and importantly on emissions. This should be set locally, because emission standards may not be as important in rural areas compared to some cities, such as Leicester, which is required to take action to remedy failure of air quality to meet European standards because of pollution from road vehicles. Private hire vehicles in Leicester are likely to undertake the vast majority of their journeys in the City and will have an impact on Leicester's air quality.

Question 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles?

Provided that local authorities have the power to impose stricter standards there should be no barrier to national minimum standards.

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services?

The only area where safety standards may need to be different is in relation to wheelchair accessible vehicles where the driver would need to be confident in loading and securing wheelchairs.

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety.

This proposal is supported. However as there are other considerations in relation to taxis and private hire vehicles, for instance in relation to emissions, local authorities would need to retain the ability to set additional standards in other areas.

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement.

This proposal is supported.

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a

technical advisory panel?

Consultation should include local authorities, the trade and other stakeholders for instance disability, environmental and minority groups. It would be assumed that a technical advisory panel would be used by the government to draft proposals.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards.

This proposal is essential.

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards?

This would be a reasonable approach, but there should be consultation on what the limits should be

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators?

This power should be retained.

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? *(Page 195)*

This should be left to local arrangements

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. *(Page 196)*

This proposal is supported

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. *(Page 196)*

This is not likely to have any relevance to Leicester.

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? *(Page 197)*

This could potentially be worthwhile, but it is only likely to be feasible if a local authority is able to continue to restrict the number of hackney carriage licences it issues.

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles

licensed by a particular licensing authority. *(Page 198)*

Private hire operators are only allowed at present to use vehicles licensed by the local authority in whose area they are licensed or by using hackney carriages. This situation should be retained. If proposal 41 is implemented, local authorities would have no control over the standard of driver or vehicle working in their area.

Provisional proposal 42

We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs. *(Page 199)*

Provided that private hire vehicles and hackney carriages from other areas are not allowed to ply for hire, this is unlikely to cause a problem.

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares.
Licensing authorities should not have the power to regulate private hire fares.
(Page 200)

This proposal is supported.

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? *(Page 200)*

No as this is likely to make an offence of overcharging more difficult to prove. There may also be a temptation for a driver to exploit passengers by requiring them to pre-book unnecessarily and making them liable for a higher fare.

REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING

Question 45

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

13

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? *(Page 203)*

National driver safety standards should be able to be set by the Secretary of State without the need for primary legislation as it is likely that they will need to be revised and updated.

Provisional proposal 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. *(Page 204)*

The requirement for vehicle owners to be fit and proper should be retained. The vehicle owner should retain some responsibility to ensure that the vehicle is maintained in an appropriate condition. Without this requirement there would be no means of enforcing this.

Question 47

Should national vehicle safety standards be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? *(Page 205)*

National safety standards should be able to be set by the Secretary of State without the need for primary legislation as it is likely that they will need to be revised and updated.

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. *(Page 206)*

This proposal is supported.

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? *(Page 208)*

This is not considered necessary.

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. *(Page 209)*

This proposal is supported.

Question 51

Should “fit and proper” criteria in respect of operators be retained? *(Page 209)*

Yes otherwise there is very little control over an operator who repeatedly does not comply with the law. Without this requirement there is little point licensing operators.

Provisional proposal 52

Operators should be expressly permitted to sub-contract services. *(Page 210)*

This proposal is supported.

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? *(Page 210)*

There should only be a requirement to record a pre-booking if it is made via an operator.

REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers. *(Page 213)*

Licensing authorities should be permitted to restrict numbers where there is evidence of overcrowding on ranks. In Leicester this is a particular problem where the demand for kerbside space for a range of uses, including buses, on street parking, loading and disabled parking is high. Taxis unable to find rank space park in unsuitable positions, causing obstruction and danger to other traffic and pedestrians. Whilst this is against the law and enforcement action can be taken, there is some sympathy for drivers who have come out to work and cannot operate. The City Council regulates fares and there is no evidence that these are any higher than other authorities which do not restrict numbers.

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost

the ability to restrict numbers? *(Page 213)*

See above.

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed?

This proposal is supported.

TAXI AND PRIVATE HIRE REFORM AND EQUALITY

Question 57

Should there be a separate licence category for wheelchair accessible vehicles?

This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. *(Page 217)*

It would be far better to require all hackney carriages to be wheelchair accessible.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? *(Page 217)*

See above

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? *(Page 217)*

See above

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. *(Page 218)*

See above.

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. *(Page 219)*

This proposal is supported.

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. *(Page 219)*

This proposal is supported.

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? *(Page 220)*

This proposal is supported.

REFORMING ENFORCEMENT

Question 64

Should authorised licensing officers have the power to stop licensed vehicles?

(Page 222)

This proposal is supported.

Question 65

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”.

(Page 223)

Where touting takes place, an offence should also be committed by the operator unless they can prove that they did not know about the touting, or took reasonable steps to prevent it.

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? *(Page 223)*

This proposal is supported.

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how? *(Page 225)*

This proposal is supported. There are a range of offences for which fixed penalty powers would make enforcement easier. These would include drivers not wearing badges, making unmetered journeys within the controlled area, refusing to drive. It is also suggested that fixed penalty notices could be issued for illegal plying for hire in some circumstances, for instance where test purchasing operations are failed.

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas.

This proposal is supported.

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? *(Page 226)*

Local authorities should have the power to revoke licences of vehicles and drivers if they are being used in the local authority’s area. This would enable it to deal with offences in their area by out of area drivers more effectively. Whether the local authority chooses to use this power will depend on a number of considerations, including cost.

REFORM OF HEARINGS AND APPEALS

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. *(Page 230)*

This proposal is supported.

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. *(Page 231)*

There is little merit in asking a local authority to reconsider its decision and this is likely to add an unnecessary administrative burden and delay proceedings without any real prospect of the decision being changed.

Where a local authority is made aware that it has made a bad decision, or that significant additional information not considered has come to light, then a responsible local authority is likely to reconsider its decision so as to prevent unnecessary proceedings.

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court. *(Page 232)*

This proposal is supported.

Question 73

Should there be an onward right of appeal to the Crown Court? *(Page 233)*

There is no right of appeal to the Crown Court in other licensing regimes, for instance alcohol and entertainment licensing and it is suggested that this is unnecessary in relation to taxis.

CONCLUSION

1.41 It is not possible in a summary of this length to introduce all of our provisional proposals. Consultees are therefore encouraged to refer to the full Consultation Paper available on our website. Please send responses by **10 August 2012**.

How to respond

Send your responses either -

By email to: tph@lawcommission.gsi.gov.uk or

By post to: Public Law Team (Taxi and Private Hire), Law Commission, Steel House, 11 Tothill Street, London SW1H 9LJ

Tel: 020 3334 0266 / Fax: 020 3334 0201

If you send your comments by post, it would be helpful if, where possible, you also sent them to us electronically (in any commonly used format).

BIRMINGHAM AND SOLIHULL TAXI ALLIANCE

ELITE HOUSE

5TH SEPTEMBER 2012

Please see below a response to the Law Commission Consultation on Taxis & Private Hire. Birmingham And Solihull Taxi Alliance (BASTA) represents owners and drivers in the Hackney Carriage and Private Hire Trade Nationally.

Comments on Consultation papers from the Law Commission Reference to Taxis & Private hire.

Provisional proposal 1:

We must maintain distinction between Public & Private hire trades. Taxis can be hailed on streets, wait on Taxi Ranks and also do pre-booked jobs with public hire companies. Private hire can only do pre-booked jobs. Both trades work parallel with each other and compatible price wise and provide better services to their respective customers. Where as public hire serves the public at no cost to the government or local authority providing a safe & secure service. Public hire fares are regulated by the local authorities and meters are tested regularly so that LA polices are transparent and can be spot checked 24 hours a day. One tier system is not suitable for both trades as it would be impossible to manage, standards would drop, the public would lose a quality public service and it would be unworkable to accommodate all private hire vehicles on high street Taxi Ranks up and down the country. Furthermore this will create congestion problems in Towns & Cities and impact traffic flow will be immeasurable.

Provisional proposal 2:

London should not be EXEMPT from these reforms. The law that governs the Private Hire and Taxi Trade should be the same nationally.

Provisional proposal 3:

It is important that all Hackney Carriage vehicles should be wheelchair accessible and with Private Hire vehicles they should be a minimum set standard I.e. size, safety and condition.

Question 4:

Every motor vehicle used for carrying passengers for financial reward must be licensed and identified by a plate number by a local authority. This will maintain public safety and help enforcement of regulations.

Provisional proposal 5:

Agree with proposal.

Provisional proposal 6:

By definition Buses & stage coaches are different in shape & size & charge individual customers with a fixed route agreed local or regional public transport authorities or executives including set times and subsidised by public fund provided national or local government. Hackney carriage Taxis charge the passenger by meters fitted in vehicles. Therefore Buses, coaches and Taxis should be licensed separately.

Provisional proposal 7:

All Drivers and Vehicles used for transporting members of the public should be licensed i.e. volunteers, Limousines and courtesy drivers and vehicles.

Provisional proposal 8:

To safeguard the public it is essential to licence ALL the drivers and vehicles to carry passengers. It would also enhance the volunteer's gaining employment in future.

Question 9:

Essentially Hackney Carriage Taxis are different than Carpooling and members clubs. However the system could be abused and used as a Taxi service therefore local licensing authorities should licence Carpooling and member club schemes accordingly.

Provisional proposal 10:

The trade agrees that rules and regulation with safety standards must be standardised across all local authorities including London. The rule must be in plain English without technical jargon. There must be a same level of testing of Hackney carriage Taxi Drivers and vehicles throughout the country.

1. Knowledge test
2. Ability to communicate
3. Standard CRB Checks with nominal fee
4. Vehicle Tests
5. Set a national standard instead of minimum standards that can be applied across the country. This will eliminate the cross border syndrome i.e. Berwick V Stockton.

Provisional proposal 11:

The duties carried out in wedding vehicles are on commercial basis and monies are exchanged therefore they must be licensed accordingly. Funeral vehicles should be exempt if they are only being used for the purpose of funerals.

Question 12:

The trade does not consider that any merits re-introducing the contract exemption will help the situation or satisfy the requirements of the trade.

Provisional proposal 13:

The Taxis should work in areas they are licensed and consistent approach such as hospitals, Airports, Railway stations, Shopping centres and any other commercial areas must be served by Hackney Carriage Taxis along with pre-booked and private hire vehicles doing only pre-booked jobs.

Question 14:

Hackney Carriages should have Taxi Ranks at Airports. Airports are often regional and members of the public from different Towns & Cities travel to & from airports therefore an area set aside to pick up pre-booked customers for public hire vehicles from different local authorities and private hire vehicle for pre-booked jobs. Plying for hire on these places is illegal and should remain so. There is no need for concessionary agreement for any type shuttle service.

Provisional proposal 15:

Agree with A & B, do not agree with C because the trade feels that the law commission is trying to legalise street hailing and ranking for private hire vehicles.

Provisional proposal 16:

People are using all forms of communications to book transport. As long as the passenger has pre-booked a private hire vehicle and the driver is insured to carry the passenger there is no problem with and form of communication.

Question 17:

The Scottish approach not suitable in the rest of the country due to competitive & none competitive i.e. market the spot hiring.

Provisional proposal 18:

Agree with proposal.

Provisional proposal 19 & 20:

Agree with both proposals.

Provisional proposal 21:

Agree with proposal.

Provisional proposal 22:

Agree with proposal.

Question 23:

The word Taxi or Cab must not be used on private hire vehicles or for advertising purposes as this will mislead the consumers.

Provisional proposal 24, 25, 26, 27

Agree with proposal 24, 25, 26 and 27.

Question 28:

Agree with proposal.

Question 29:

There are some practical obstacles to set a common national safety standard for both trades because Hackney Carriage needs to meet both national & local standards while private hire only needs to meet a minimum standard. Having said that all types of vehicles should be fit & proper.

Question 30:

The national conditions in respect of driver safety should be paramount for both trades, Private Hire and Hackney Carriage.

Provisional proposal: 31 & 32:

Agree with both proposals.

Question 33:

Technical advisory panel should be consulted before determining the national safety standard.

Provisional proposal 34:

Agree with proposal.

Question 35 & 36:

Agree with both proposals.

Question 37:

It is best left to the local arrangements.

Provisional proposal 38:

Yes they should have the option.

Provisional proposal 39:

Don't agree with the zoning proposal.

Question 40:

No they should not have the power to issue peak time licences. This will not work; it will also have an impact on non-peak hour's work of serving the public. The licensing authority for issuing of peak hours transport and will create long term problems for the trade. The trade is meeting peak time demand very well and this is an ill-conceived idea.

Provisional proposal 41:

They should be restricted to using vehicles and drivers within their licensing authority. This proposal is not workable because this will create a honey pot; there will be no control on illegal activities i.e. plying for hire, identifying vehicles should safety issues arise and deception by certain elements in the trade. Rules and regulations should apply to all drivers and operators. Once jobs are completed all drivers should come back to their licensing areas.

Provisional proposal 42:

We do not agree with this proposal, they should return to their licenced area.

Provisional proposal 43:

Hackney Carriage and Private Hire fares should be regulated by the local authority but Private Hire Operators should set their own rates. All should be fitted with meters.

Question 44:

NO.

Question 45:

We agree with B.

Provisional proposal 46:

The fit & proper should apply to the vehicle and its driver.

Question 47:

We agree with B.

Provisional proposal 48:

Agree with this, it helps to control and pre-booked jobs in events of incident and keeping records.

Question 49:

There is no need as there are already multiple licences in place.

Provisional proposal 50:

Agree with this proposal.

Question 51:

Yes it should.

Provisional proposal 52:

No they shouldn't.

Question 53:

Yes they should.

Provisional proposal 54:

Restriction on Taxi numbers & Local Authorities: Standing still is not an option. The Law commission's considerations to deregulate the Taxi Trade in the UK will have a major impact on local Authorities and Taxi Trade. By maintaining the Local Authorities to restrict the numbers of hackney carriages will have the following benefits:

- The LA provides a public hire Taxi service at no cost to public funds.
- The LA controls the fare structure.
- By maintaining the numbers the LA can improve standards of Vehicles & Drivers.
- By maintaining the numbers the LA can prevent congestion in busy areas of Towns & Cities.
- By maintaining the numbers the LA can trace drivers should disputes arise.
- Public safety can be further assured by vigorously applying safety standards.
- By maintaining the numbers the LA is in a position to provide a public service where it is required.
- All the above can be maintained by owners investing in new vehicles and technology if the livelihoods of the owners & drivers is protected.
- Premium Value: Every business has a premium value which keeps the business active. Individuals engaged in any business must have an incentive which motivates

them to improve standards and protect their investments; Hackney Carriage trade should not be seen any differently. This should not be seen as an obstacle or barrier to engage in the Taxi Trade. The licence holders do not have a monopoly on Taxi fares as they are implemented by the local authority professionals after public consultations.

Evaluating the impact of the taxis market study A Report for the OFT by Europe Economics October 2007 **Crown Copy Right 2007** *“The amount of time taxi drivers wait between fares has increased in both restricted and de-restricted areas, but with considerably larger increases in*

de-restricted areas. In our sample LAs the average increase OFT956 4 in driver waiting time of taxis hired at taxi ranks was 77 per cent more in de-restricted than in restricted areas. This increase in driver waiting time is significantly greater than the reduction in passenger waiting times although account must be taken of the small samples for both observations. This suggests a decrease in the productive efficiency of the taxi industry – the benefits to consumers in terms of decreased waiting time are more than offset by the costs to taxi drivers of providing an improved service”.

Question 55:

By saturating the market LA will lose ability to maintain standards, which in turn will compromise public safety leading to significant increase in number of complaints. The enforcement of conditions will be difficult due to increase in numbers. Economically it will not be possible for drivers to maintain standards. Currently there insufficient Taxi Ranks across the country to accommodate the Taxis. De-restricting congestion will increase in Towns & cities leading to the general public not having confidence in their Local Authorities.

The following problems will also arise. These are based on many years of experiences of working in Taxi trade during varying economic situations.

- Drivers working longer hours leading to fatigue compromising public safety.
- (ii) Impact on family life of working longer hours and neglecting family life including children which will have an impact on LA to pick up the pieces (earning a living V Family life).
- (iii) Drivers doing another job as well to maintain livelihood but also compromising public safety.
- (iv) Drivers working only peak hours which is no benefit to consumers.
- (v) Conflict among drivers on Taxi ranks chasing too few customers.

Question 56:

No there is no need to take this measure as stated in Q 56. Should there be a need then unmet survey should be carried out by professional Transport Management Companies with no cost to the tax payers.

Question 57:

- (1) No
- (2) Yes this already exists in our and many other local authorities.

Question 58:

No this will create another set of issues.

Question 59:

All Hackney Carriage Vehicles should be wheelchair accessible and Private Hire Operators should have a minimum of 20% on their fleet.

Provisional proposal 60

Do not agree with proposal.

Provisional proposal 61 & 62:

Agree with these proposals.

Question 63:

This should be the legal duty of a Taxi driver to stop and assist a disabled person if hailed on the street and if it is safe to do so. Refusal is unacceptable. Equalities Act 2010 states that this information should be displayed outside the cab on how to complain in cases of perceived discrimination.

Question 64:

Yes authorised licensing officers should have the power to stop licensed vehicles but only for drivers to comply with regulations. This should also apply to vehicles from neighbouring authorities.

Question 65:

Touting as an offence should remain, licensing officers should be empowered to issue fixed penalty notices for such offence. Persistent offenders should be taken to court and Magistrates should be empowered to deal strictly with repeat offenders i.e. revoke and suspension of licences. Furthermore LA licensing panels should also make sure that they deal with the operators who employ these touts.

Question 66:

Yes they should and it would not be difficult to implement, especially in very serious breaches of regulations this may be the only way.

Question 67:

Yes this must be addressed objectively and equally apply to plying for hire by private hire drivers.

Provisional proposal 68:

Yes, also provide full information to neighbouring local authorities.

Question 69:

Yes they should and this could be achieved by the local authorities sharing information and co-operation to enforce the law.

Provisional proposal 70:

We do not agree with this proposal as this would remove away the ability of the driver or licence holder to have a trade body or a law professional to assist/represent against a decision perceived to be incorrect.

Provisional proposal 71:

Agree with this providing a trade body can represent its members.

Provisional proposal 72:

Appeals should continue to be heard at the Magistrates. It is only right if a decision is perceived to be wrong for this to be heard by a magistrate Court.

Question 73:

Yes there should be an onward right of appeal to the Crown Court. Should a party wish to take such actions then it can proceed even to High court, however there ought to be systems and processes in place in local authorities to bring on resolutions to avoid costly cases.

Conclusions: We have responded to the Law Commission consultation paper to the best of our ability, keeping in mind the needs of the Taxi industry and Public. We hope the Law Commission will take our input into their considerations when making any decision.

We would like to take this opportunity to thank Jessica Ugucioni and her colleague for facilitating a very constructive meeting in Bury which we attended and also Richard Percival for arranging the meeting in Birmingham. This meeting assisted our organisation understand the consultation and our responses.

MOHAMMED RASHID - CHAIRMAN

From: Samuel, Jackie on behalf of Communications Law Com
Sent: 10 September 2012 14:42
To: Gray, Hannah
Subject: FW: Regarding consultation: 'Reforming the law of taxi and private hire services'

From: Graham Leigh [mailto: [REDACTED]]
Sent: 08 September 2012 18:42
To: [REDACTED]
Subject: Regarding consultation: 'Reforming the law of taxi and private hire services'

Dear Sir/ Madam,

I am writing to you with reference to press coverage on the 10th May 2012 concerning the law commissions consultation document 'Reforming the law of taxi and private hire services'. The changes they have proposed are recommended for nationwide implementation and pay no credence to local circumstances.

This is not the first time a consultation of this nature has arisen. In 2002 the Office of Fair Trading conducted a very similar consultation, resulting in the House of Commons Transport Committee considering the evidence for three years before heavily criticising the report. The report was eventually dismissed and none of the recommendations were implemented.

The total cost of the original consultation and the considered response from the Transport Committee must have been enormous, and to contemplate repeating this process within ten years, with the costs involved, when circumstances remain similar, and in this this current economic climate seems to be an extravagant waste of resources.

The main bone of contention, then, as now, has been the move to deregulate Hackney Carriage Taxis. Our argument remains the same as it did ten years ago. How can a central body suggest sweeping changes affecting all areas of the country, without knowledge of the issues that are sensitive to particular areas. Local councils remain in the best position to make decisions regarding local taxi issues.


Here in Torbay we have had a succession of independent surveys (approx. every 3 years) arranged by the local council and funded by the Hackney Carriage trade. On each occasion it has been found that there is no unmet demand. I am sure that if the local council found in future surveys that there was an unmet demand, they would increase the amount of Hackney plates to an appropriate level to meet that demand.

Finding rank space to accommodate any additional taxis is another matter. It would be a challenge to the local council to say the least. Already there are many occasions when taxis are forced the queue in restricted areas just to gain access to a taxi rank to 'ply for hire'. This can cause traffic problems, lead to taxis being asked to move on, having to look for space on other ranks and even to being issued tickets for traffic violations. Bearing in mind that most taxi drivers are self employed, and need to gain access to a rank to earn their living, deregulation would lead to a 'free for all', creating traffic chaos and raising health and safety issues.

The House of Commons Transport Committee found the last consultation flawed and impractical to implement. Torbay Council maintains the local situation with independent surveys every three years to see if there are any unmet demands.

On these grounds I believe that the most sensible way forward is to continue to maintain a regulated, stable and therefore safe Hackney Carriage Taxi Service in Torbay.

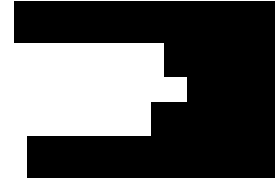
Yours faithfully,
Graham Leigh,
[REDACTED]



Hackney Plate No. 24 Torbay Lic. Authority

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Steven Fenlon



Public Law Team (Taxi and Private Hire)
Law Commission
Steel House
11 Tothill Street
LONDON
SW1H 9LH

6th September 2012

Ref: Reforming the Law of Taxi an Private Hire Services Consultation 2012

Dear Sir or Madam,

Following the proposals for the possible changes in Taxi Law, I hereby wish to comment in my capacity as a licensed Hackney Carriage Driver in Torbay, which has been my occupation for over twenty years

I believe licensing should be left to local councils who know the area, the demand, the positives and drawbacks.

The winter and summer trade are different. The summer trade has been declining for many years. We are in a recession, shops are closing, and therefore business is very hard. The public are always saying there are a lot of Taxis in Torbay. There isn't the rank space for the Hackney Carriage registered cars now.

In the winter you cannot get on the town ranks that have some business, you have to go around the town on the one way system and try again; sometimes three or four times.

As for more taxis on the ranks, at present or even in the summer months you can wait 50 minutes to an hour for your 1st job, and that might be a £3 fare just around the corner.

I have a mortgage and bills to pay every month and believe me, it is a struggle. To change the licensing regulations now would mean my livelihood being taken away with many other taxi drivers. Also, there is hardly any other work here in Torbay and everybody would struggle.

I strongly believe Torbay Council should be allowed to continue to operate their own jurisdiction base upon what the area needs.

The regulation of the number of hackney licences and unlimited number of private hire vehicles being made available has provided Torbay with a high standard and competitively price taxi service where demand is met even at peak times and still allowing taxi drivers to make a living.

Yours faithfully

Steven Fenlon

For The Attention of the TPH Team

Re: Law Commission Taxi Law Reform

Provisional proposal 11 in Consultation Paper No 203

Weddings and funerals should no longer be expressly excluded from private hire licensing through primary legislation. (Page 172)

This is a grossly misguided proposal. Wedding and Funeral Car Hire is expressly excluded from private hire licensing for good reason. Wedding and funeral cars are not taxis or mini cabs and to suggest that they should be regarded as such is without logic. They are not part of the national transport system. Taxi and mini cab controls would be totally disproportionate for vehicles which cover so few miles per year and where the operators and premises are known to the client and where the client - proprietor relationship is paramount.

Wedding Car Hire is a first rate example of a deregulated business sector that provides value for money and has an excellent safety record. Moreover about half of businesses are small family concerns offering brides the opportunity to experience genuine historic vehicles, which are part of our national heritage. The international heritage value of historic cars is encapsulated in the Charter of Turin.

Historic cars when not in use are dry stored and in the winter months when no bookings are taken. The winter lay up enables planned maintenance to be undertaken. At times parts have to be specially made and this takes time. This management regime could not be undertaken with the ten week taxi test intervals, which are part of the private hire licensing regime.

The safety record of such vehicles is recognised by the low cost of insurance and has been further recognised and rewarded by the Dept. for Transport's ruling that from 18 November 2012 vehicles built on or before 31st Dec 1960 will be MOT exempt.

There have been no reports or evidence of brides or other members of wedding parties being attacked or assaulted in any way by wedding car drivers or company owners.

Family firms have a known address, the driver is typically the owner and that the client and business owner have met and have exchanged contracts with permanent addresses and other contact details. Wedding cars are not hailed in the street or appear after a blind telephone booking to a mini cab company.

Wedding cars are not hired blind but are carefully selected and inspected by the client. Client proprietor relationship is of vital importance to ensure that the bridal car is decorated to the exacting standards of the modern bride and cars are booked months in advance. Family run wedding car businesses are part of the wedding celebrations, not just providers of transport on the day, and to this end, both parties keep in touch about colour schemes and car decorations during the months between booking and the wedding day itself.

There are no opportunities for criminal activities. Addresses are known and on a lighter note, photos and details of the wedding car, often with the driver, have been posted on Facebook by one of the wedding guests before the wedding cake is cut.

The Law Commission notes that some cars that are booked as wedding cars are also licensed private hire vehicles. This is in fact the case, but the Law Commission, with respect, is looking at this the wrong way round. Some private hire vehicles undertake wedding car hire contracts as work, which is additional to their primary revenue generating work.

The removal of exclusion from private hire licensing requirements for wedding cars would result in wedding cars becoming mini cabs with all the additional costs of licensing but without the ability to undertake mini cab work to offset these costs.

Vintage and historic cars are not suitable for taxi or mini cab work. Anniversary Cream Teas, Golden Birthdays, Proms and other such concepts are pure fantasy. No car hire business could function on such work. Private hire vehicles take advantage of such occasional bookings, but they are additional to the mainstream work of providing either bread and butter transport, or nightclub transport.

Wedding cars from family run businesses undertake one wedding per day and charge a fixed fee for that wedding. When private hire vehicles are hired as wedding cars, fees are charged by the hour, with a maximum time allocated, other work is booked on the same day.

It is very difficult to get a local licensing authority to license a car more than a few years old when applying for plating as a private hire vehicle. How could historic vehicles be considered?

Is compensation planned for wedding car businesses based on vintage and historic cars?

Hackney Carriage and Private Hire Vehicle require an annual MOT if appropriate, and for additional testing every ten weeks which is in effect an MOT with a few additions such as cleanliness and condition of seats, first aid kit, spare wheel and associated tools and equipment. One test inspector told me that some of these vehicles can cover about eighty thousand miles per year.

Cars would be only doing winter mileage in going to and from the test center. Is not the above test regime, a little excessive for wedding cars that cover about three thousand miles per year?

Such a system is grossly disproportionate especially as you, the Law Commission, are strangely silent on national standards for Voluntary Drivers, which as a sector cover some 600,000 miles per year.

No national standards are proposed for the voluntary driver sector, could it be that 600,000 miles per annum is too small to be considered part of the nations transport infrastructure? If this is so, why be concerned about the few tens of thousands of wedding car miles per annum?

Customs and Revenue have produced mileage claim amounts for voluntary drivers. The

mileage chart stops at twenty thousand miles per year. There are no national standards for the voluntary driver sector that require Health Checks, CRB Checks, Special Driving Tests, regular Vehicle Safety and Condition Checks. These drivers only carry the sick, the young and the elderly and in cars, driven in the main, by retired people.

In addition The Law Commission has failed its own Criterion 4. Why would people from the wedding and funeral sector, expressly excluded from private hire licensing read consultation proposals about Hackney Carriages and Private Hire? Especially as this proposal was hidden away on page 172 of a lengthy document.

In Conclusion there has been:

Total lack of consultation with the Wedding Car Hire Sector, especially those involving Historic and Vintage Cars

Total failure in understanding the impossibility of Historic and Vintage Cars being plated as PHV's.

Total disregard for imposing significant costs on a sector run in the main to keep Vintage and Historic cars on the road.

Total lack of evidence to support Provisional proposal 11

Total lack of proportionality and logic when compared with the Voluntary Driver Sector.

Provisional proposal 11 adds cost, adds red tape but does not add value.

Therefore:

Drop Provisional proposal 11 and revisit the Voluntary Driver Sector, some of the drivers in this sector are in need of being driven about by others.

For The Attention of the TPH Team

Re: Law Commission Taxi Law Reform

Provisional proposal 11 in Consultation Paper No 203

Weddings and funerals should no longer be expressly excluded from private hire licensing through primary legislation. (Page 172)

This is a grossly misguided proposal. Wedding and Funeral Car Hire is expressly excluded from private hire licensing for good reason. Wedding and funeral cars are not taxis or mini cabs and to suggest that they should be regarded as such is without logic. They are not part of the national transport system. Taxi and mini cab controls would be totally disproportionate for vehicles which cover so few miles per year and where the operators and premises are known to the client and where the client - proprietor relationship is paramount.

Wedding Car Hire is a first rate example of a deregulated business sector that provides value for money and has an excellent safety record. Moreover about half of businesses are small family concerns offering brides the opportunity to experience genuine historic vehicles, which are part of our national heritage. The international heritage value of historic cars is encapsulated in the Charter of Turin.

Historic cars when not in use are dry stored and in the winter months when no bookings are taken. The winter lay up enables planned maintenance to be undertaken. At times parts have to be specially made and this takes time. This management regime could not be undertaken with the ten week taxi test intervals, which are part of the private hire licensing regime.

The safety record of such vehicles is recognised by the low cost of insurance and has been further recognised and rewarded by the Dept. for Transport's ruling that from 18 November 2012 vehicles built on or before 31st Dec 1960 will be MOT exempt.

There have been no reports or evidence of brides or other members of wedding parties being attacked or assaulted in any way by wedding car drivers or company owners.

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REFORMING THE LAW **OF TAXI AND PRIVATE HIRE SERVICES**

Submission

10 September 2012

Introduction	2
Our Company	4
Our City	5
Licensing	6
Specific Replies	7
Forum Agenda	Annexe

Sent by email to: tph@lawcommission.gsi.gov.uk

Prepared and submitted by the Board of Directors:

David Smith Chairman
John Streeter Vice Chairman
Jeff Howell
Alec Knight
John Oram
Leslie Paine
Mark Wilkinson

LAW COMMISSION - REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

INTRODUCTION

This with the following pages is our response to your report. We indicate below issues on which we have strong views and, where appropriate, these are developed in the following pages. While we have a wealth of experience in the taxi trade, our operations are predominantly in Brighton & Hove and the surrounding areas, so we cannot always refer to specific situations elsewhere. However it is clear to us, and hopefully has become so to you, that the 'one size fits all' scenario is unsuited to such a diverse trade.

Thus we do not propose responding to every question and proposal, only those that we can give direct answers to. We have no specific answers to the remaining questions or proposals at the present time.

Since publication of your report, we have attended five meetings with the Law Commission in different parts of the country. Many areas of discussion have been applicable at national level. Equally, many have not and it is these that demonstrate the local situations needing local knowledge and control – licensing, vehicle types and numbers, standards, topographical knowledge, passenger needs...and so on. To remove these controls from local licensing control is to invite problems, encourage falling standards and diminution of services to public detriment.

Licensing areas – even locally adjacent ones – differ widely. For example, Brighton & Hove is a major conurbation while surrounding areas are mostly rural; different demographics, different passenger needs. How can these variations be addressed by removing local licensing powers?

Local control is crucial to provision of this local service to satisfy passenger needs securely.

Many Licensing Authorities have found that the consequences of delimiting have an adverse effect within their area and have then reintroduced quantity restrictions. This is a clear demonstration that delimiting is not the best option for all areas. Again, local issues need local solutions.

Retaining limits and pursuing a 'managed growth' policy, as in Brighton and Hove, allows a proper service to the able and less able alike.

The periodic external 'unmet demand' survey works for the trade and public alike in confirming that service provisions meet the needs of the area. The policy also allows for absorption of the extra vehicles within the existing infrastructure, without risking the major traffic congestion and pollution that delimiting will bring.

Within the framework of the above, local knowledge is essential for proper public service and applies to hackney and private hire alike. Brighton and Hove is a major tourist destination, holiday resort and host to numerous foreign students and business visitors; many of these have only vague ideas of destinations or seek help in finding a particular type of restaurant, store or venue and rely on their driver's knowledge. Further, to remove the local knowledge test from private hire vehicles will almost certainly result in higher costs to passengers without local knowledge of shortest and/ or best routes at any given time. Sections 9.28, 10.26 and 12.23 of your report substantiate this truth.

Cross border hiring is a serious problem and, while your report addresses the issue, without precise planning for local enforcement powers the problems would increase under your proposals. The only clear safeguard is to ensure that 'return to area' requirements are put in place. It already exists that bookings from remote areas can be serviced with a vehicle licensed in the Operator's area and this should continue to be the case. By extension, change to the 'triple licensing' requirement is unnecessary and it should remain in place.

LAW COMMISSION - REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

Your report states that levelling out standards and costs of PH licenses throughout the country would enable operators to use any PH in any area that they chose. You have obviously missed the fact that PH and Hackneys already work together and mainly on the same circuits in most provincial towns and cities already and that customers expect the same quality of knowledge from both. London is very different. There is unlimited path work in London but most provincial towns and cities do not have this. In some towns and cities, and especially rural areas, most business is mainly telephone bookings. Cross border hiring with PH will flood certain cities and towns particularly at peak times.

Greater enforcement powers must be given to Licensing Officers to deal with taxis/PHs who continually work away from an area they are licensed to operate in.

If this "condition of license" is introduced nationally it will go a long way towards maintaining high standards within the trade, e.g. a taxi owner in Brighton (a city which already has high standards) could save a considerable amount of money by licensing his vehicle in a nearby licensing authority which has much lower standards and a much cheaper license fee. If a "free for all" was allowed to happen then every taxi and private hire owner would go once or twice a year to the cheapest nearby authority that has the lowest standards. Furthermore, if your initial recommendations go to Government in their present form, standards will fall everywhere and licensed drivers everywhere will have to look for a second job to survive.

In short – Local Conditions, Local Solutions, Local Control.

LAW COMMISSION - REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

ABOUT OUR COMPANY

Brighton & Hove Streamline Taxis is the largest combined taxi and private hire association in the south and has been in operation since 1936.

We run a mixed fleet of nearly 370 vehicles comprising 270 Hackney Carriages and 95 private hire vehicles. All vehicles and drivers are licensed exclusively by Brighton & Hove City Council (private hire vehicles and drivers have been licensed in Brighton for over forty years, unlike other parts of the country). Streamline currently have about half of the City's total licensed Hackney Carriage fleet on our circuit.

In the interests of clarity and fairness for the travelling public, our private hire vehicles operate on the same metered rates as the Hackneys, using meters checked and sealed by the council and displaying the appropriate fare charts.

Alone in the City, we have an in-house PATS qualified trainer – himself a WAV* owner/driver. Every one of wheelchair accessible vehicle drivers is trained and certified by him and the Council notified accordingly. All of our call centre staff have disability awareness training. They use a standard script when taking wheelchair bookings; this ensures that we are aware of the passenger's needs and can supply a vehicle appropriate to them.

Our Directors are democratically elected by Members to run the company and each Board member is an owner and regular driver; both hackney and private hire are represented.

Our company insists upon the highest standards. All drivers new to the Company (or returning after extended absence), both Hackney and private hire, must take a knowledge test – in addition to the Council test - before they are allowed to drive a Streamline liveried vehicle. This applies irrespective of whether they are new to the trade or have driven for many years. All vehicles are required to be logged in to our computer dispatch system when working so that we are able to respond to any issues raised by passengers whether pre-booked or not.

Streamline operate according to rules approved and adopted by our Members. The book of rules is issued to every owner and driver and compliance is required at all times. This enables us to give our customers the standard of service they rightfully expect.

We are anxious to preserve the standards achieved over many years for vehicles and drivers both in the City and for our Company in the face of difficult economic and market conditions.

- Wheelchair Accessible Vehicle.

LAW COMMISSION - REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

ABOUT OUR CITY

Brighton & Hove is a vibrant, exciting, 24/7, entertaining seaside resort with a population of about 270, 000, two universities and numerous language schools. Outside of London it has more restaurants per head of the population than any other town or city in the UK

Some 50% of the population of working age is classed as 'economically active', about 32000 people have some disability, there is a student population of about 40000 and there are more than 35000 over 65s¹. Unusually, the 'bulge' in the population is in the 20 to 44 year old grouping. In addition, some 35–40000 foreign language students visit for varying periods every year and there are large numbers of tourists, day-trippers and holidaymakers throughout the year but predominantly in the summer months.

This is truly a multi-cultural, cosmopolitan city..

There are 545 licensed hackney carriages in the City but there are only rank spaces for a maximum of 160 - and this includes 16 spaces in Brighton Station which are outside of Council control.

Brighton and Hove currently has major problems with both traffic congestion and air pollution^{3 & 4}; the City faces fines under EU legislation if air quality cannot be improved. Vehicle emissions are seen as significant pollution contributors and various traffic management approaches are advocated. Taxis and PH vehicles may be expected, on average, to cover some 40000 miles a year mostly within the City; additionally, engines may be left running during winter months to maintain temperature. It is logical, therefore, to assume a higher pollution quotient from these vehicles, buses and trucks than from general motorists.

Delimiting² would inevitably lead to an increase in taxi/PH numbers. As the concentration of taxi work is in the central area, which is also one of the low air quality zones, it follows that pollution would increase. In general, for reasons of economy, most taxi and private hire vehicles are diesel fuelled; recent reports indicate that, while manufacturers have cut diesel engine CO₂ emissions, it is at the expense of higher NO_x output levels – and the WHO have implicated these pollutants in various cancers.

In addition, extra vehicles concentrating in the central areas would add to the existing congestion problems. Central Brighton is an area of narrow roads with buildings in close proximity; this is not conducive to free circulation of air. And lack of rank space would encourage extra vehicle movement between hirings.

Any increase arising from delimiting taxi numbers would inevitably further congest the City and be detrimental to public health and safety.

¹ www.bhlis.org

² LC Report Ch 17/Proposal 54

³ http://www.brighton-hove.gov.uk/index.cfm?request=b1149084&action=show_pr&id=280665

⁴ <http://www.brighton-hove.gov.uk/index.cfm?request=c1001183>

LAW COMMISSION - REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

ABOUT BRIGHTON & HOVE CITY COUNCIL (THE LICENSING AUTHORITY)

The Council mandate a high standard for taxi and private hire vehicles and drivers in the City and liaise with the trade regularly through a forum of stakeholder representatives to ensure the optimum standards and levels of service are maintained. As well as participants from across the trade, representatives of disability groups, the police, traffic planners and others may attend. Meetings are held every four to six weeks and cover all areas of common interest – a copy of the recent agenda is [annexed](#). The forum has been established for fifteen years and has been proven effective.

Licensing Statistics as at 29th August 2012 are as follows;

- Hackney Carriages total 545
 - Of which 165 are wheelchair accessible
- Private Hire 428
 - Of which 28 are wheelchair accessible
- Licensed drivers 1750 approx $\frac{2}{3}$ are hackney and $\frac{1}{3}$ PH¹
- There is one Hackney Carriage for every 500 people in the population – double the national average

Hackneys and private hire vehicles alike are required to meet the same high standard set by the Council. Drivers, similarly, are tested and licensed to equal, high standards – to DVLA Group 2 standard and including enhanced CRB and regular medical checks. New drivers have to meet DSA test requirements and complete a BTEC qualification in passenger service (including disability awareness). These licensing conditions are set out in a 'Blue Book' which is issued to all of its licensed taxi and private hire drivers, plate holders and operators. The book sets out the licensing requirements and standards to be met as well as the legislation and by-laws covering the trade. Any change or adjustment to the conditions is firstly discussed at the Forum, with any recommendations being put forward to the Licensing Committee who will ultimately have the final say.

Working in such association with the trade over the years has raised standards to the current high levels and ensured their continuation. Most recently, this co-operation between Licensing and the trade has resulted in the provision of rear access wheelchair accessible vehicles; in many cases these are the only safe means of transport for powered wheelchairs.

The council operates a managed growth policy. Every third year an independent Unmet Demand Survey is carried out and any newly issued Hackney Carriage license must be for a wheelchair accessible vehicle. In addition, whenever an existing license is transferred it must be upgraded to a wheelchair accessible vehicle. Although no 'unmet demand' was established in the last two surveys the council nevertheless decided to issue further licenses to increase the WAV numbers in the city.

'Unmet demand' surveys² serve a dual purpose. As the name implies it is to identify instances of unsatisfied demand for which additional vehicles may be required to provide a service – but any shortfall in vehicle numbers can only be evidenced by the survey highlighting the areas, times or sectors of the community suffering the lack. Thus it provides an invaluable public service which would be lost if delimiting removed the need for surveys^{3&4}.

Removing the Council's power to limit taxi numbers will almost certainly erode present standards. Owners will likely suffer lower incomes with more vehicles competing for the limited business available and routine and/or preventative maintenance will be restricted – leading to lower standards and increased public risk⁵.

¹ some drivers are dual licensed

² LC report – 1.15, 2.21, Ch 9

³ LC Report Ch 17/Proposal 54

⁴ LC report – Ch 9

⁵ LC report – Ch 9.49

LAW COMMISSION - REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

RESPONSE TO QUESTIONS / DRAFT PROPOSALS

(additional to notes in previous pages)

1. Regulation between taxis and private hire must continue, and certainly as proposed
5. Agree
8. Any volunteer drivers should be enhanced CRB checked and have the necessary insurance to protect the people they are transporting.. Strict regulation of total mileage needed to prevent income generation (which may exist even within the limited maximum mileage rate allowed)
11. Wedding cars and stretched limousines should be under *licensing authority*. control to safeguard the public. Funeral cars, however, should be exempt.
16. Agree
18. Agree
19. We agree with the proposal, providing that the driver, vehicle & operators license are all issued by the same local authority. This will allow enforcement issues to be dealt with by the licensing authority and safeguard the travelling public.
21. Localisation is the answer. A democratically elected council must be allowed to oversee all matters relating to Hackney Carriage and private hire vehicles and drivers under their jurisdiction and control. They must also be given greater enforcement powers to ensure that all vehicles and drivers licensed in their region return to that region when they have dropped a fare. It is submitted further such powers should not be abrogated to central Government.
24. If minimum standards are introduced they must apply to both taxi and private hire vehicles equally. Where the licensing Authority requires, a higher standard than this must be permitted
25. Any minimum conditions must apply equally to hackney carriages and Private Hire – as for 24 above
26. Disagree - any standards set should be the minimum and with the Licensing Authority empowered to set such additional standards as they apply to Hackney Carriages (see 24 above)
27. We would contend that private hire services and their drivers should be subject to standards of safety and all other standards such as topographical knowledge equal to those applied to hackney carriages and driver, in order to maintain service, safety and reliability for the public.
28. Local standards for private hire vehicles should apply beyond signage but extend fully to the same level as those applied to hackney carriages, in the best interests of the public.
29. No issue if the standards are set as minima, with potential for Licensing Authorities to set such higher standards as they deem fit for both taxis and private hire
30. No. Driver standards must be the same as there is no real distinction between their functions
34. Agree - provided that the same local powers exist for Hackneys and private hire equally

LAW COMMISSION - REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

36. Yes. Local conditions vary significantly around the country and, particularly in tourist areas or those with transient populations, Licensing Authorities should have the power to reflect these local conditions in licensing
37. Even adjoining licensing areas differ in their nature and topography; conditions appropriate to one area may be entirely unsuited to a neighbour. Such issues can only be determined locally.
38. Not if either expands operational areas or compounds the 'cross border' problem.
40. Emphatically no. There is no evidence of unmet demand in our area and any limited licensing would simply make no sense for us. There is also the element of enforcement to consider and this would be, or could become, a major issue.
41. All three licenses must be issued by the same authority. When a licensed Hackney or private hire drops out of his area they must return to the area of their license to provide the service that the authority requires within their jurisdiction. This alone would assist in combating the present cross border hiring problem. It already exists that an operator can take bookings for out of area work, to be served by vehicles permitted within the Operator's licence
42. See 41 above
44. Within a licensing area, the tariff set by the Licensing Authority must remain as the maximum fare. Beyond that area, individual agreements may be struck but, as a Company, our policy is that all out of area work should not be charged higher than the tariff rate. The public are served both by Taxis and private hire, and similar conditions should be applied to both for protection of the public.
46. All vehicle owners and operators for both Hackney and private hire should be subject to 'fit and proper' tests, preferably locally with any national standards being set only as minima.
48. Yes. Operator records may be the only way to identify a vehicle or driver in the event of a problem or complaint. For protection of the public, Hackney circuits should not be exempt from this
49. Yes – for the reasons stated in 48 above
50. Agree
51. Agree
52. We cannot envisage ever needing to sub-contract in view of the size of Streamline and we would not wish to in any event - other than possibly for a particular vehicle we could not supply (eg.: vehicle over 8 seats, coach, mini-bus).
53. Record keeping must be made to be effective if complaints arise, for customer protection and for enforcement.
54. The reply to this question must be localism! The unmet demand surveys are as much for the travelling public's good as for the local licensing bodies. The law commission is proposing no change to a Licensing Authority setting taxi conditions, fare regulation, licensing and enforcement - only the removal of the ability to decide the number of Hackney Carriages in their area. We would suggest it is only the Local Authorities who are best placed to make that decision and not Government via an arbitrary national quota system.

LAW COMMISSION - REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

55. This question should be directed to those councils who originally lifted restrictions but subsequently re-restricted. Under Chapter 9 (Quantity Restrictions), examples are given for the Wirral Borough Council who decided to re-restrict in January 2012! Other councils include Cardiff, Chesterfield and Coventry who have also decided to re-introduce quantity restrictions.
56. If quantity restrictions are forced on local authorities who do not wish it then this must be phased in over many years with staggered entry tax concessions and hardship panels (unlike Ireland – see 9.46)
59. Brighton & Hove Council currently operates a “managed growth” policy, with all new vehicle licenses issued being for wheelchair accessible vehicles only. There is also in place a rule that an existing vehicle license being transferred becomes wheelchair accessible on next licensing.
64. Greater powers for licensing officers to enforce all matters relating to Hackney Carriages and private hire vehicles and drivers, including ‘out of area’ cars
68. See (64)
69. See (64)

LAW COMMISSION - REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

Annexe

Brighton & Hove Hackney Carriage and Private Hire Consultation Forum

**Meeting in Committee Room 1, Hove Town Hall
Wednesday 22nd August 2012**

AGENDA

Trade Only Meeting 1.30pm – 2.30pm

Full meeting 2.30pm – 4.30pm

- 1. Apologies**
- 2. Minutes from last meeting**
- 3. Traffic Management, Ranks, Brighton Station, Amex**
- 4. Sussex Police**
- 5. Forum Constitution / Membership**
- 6. Law Commission**
- 7. Accessibility Policy**
- 8. Enforcement**
- 9. Items for next Meeting**
- 10. Date of next meetings**

11th October 1.30 – 4.30 Committee Room 3

6th December 1.30 – 4.30 Committee Room 1

Community Safety and Licensing

Reply to:

Tel:



Date: 5th September 2012

Dear Sir, Madam,

Law Commission : Reforming the law of taxi and private hire services

Please find below comments by West Oxfordshire Licensing Authority relating to the key questions posed by the Law Commission as part of the above consultation

1. *National minimum safety standards to both taxis and private hire vehicles.*
Agree. This is a logical and appropriate step.
2. *Applying additional local standards to HC eg knowledge tests, however limited additional local standards for PH eg signage*
Agree.
3. *PH to operate on a national basis – not restricted to a locality*
We believe this would create complexities with enforcement issues as it would be difficult to know from where a PH operator was licensed.
4. *London would be regulated under the same frame work as England and Wales.*
Agree
5. *LA could no longer limit the number of taxi licences.*
This would not cause difficulties for our Local Authority area as we have no current limit however, we suspect this may be more problematic for urban areas with existing limits.
6. *More enforcement powers for licensing officers for drivers and vehicles.*
Agree but more clarification required on exact powers.
7. *Disability awareness training for drivers*
Agree
8. *Statutory definition for 'plying for hire'*
Agree, this issue arises periodically and a statutory definition would be useful

9. *Wedding and funeral cars no longer exempt*

Disagree, our authority has never had any issues with this type of vehicle.

10. *Allowing leisure use of HC and PH vehicles*

Agree in principle with this proposal, however we are concerned about the practicalities of removing the registered vehicle distinguishing features ie plates, lights, meter etc when being used for leisure activity. If these items are not removed it may cause confusion for h members of the public still assuming the vehicle is for hire.

11. *Bringing more vehicles within the licensing system (motorbikes and pedicabs)*

Agree

12. *A new category for wheelchair accessible vehicles*

Agree. We have low demand for wheel chair accessible vehicles in our authority but support the concept.

13. *Reintroducing a 'revised' contract exemption*

Disagree, this authority believes that all drivers should be subject to a robust application process whatever there area of work. In many instances the drivers working on contracted routes are often dealing with the more vulnerable members of society such as children and the elderly so it is important they are part of the same robust procedure.

14. *A new 'peak-time' taxi licence that could only be used at particular times of the day to be decided by the LA.*

Agree, we believe this type of licence would be more relevant to large urban areas rather than predominantly rural areas such as ours.

We hope you find the above comments useful as part of the consultation. Please do not hesitate to contact me if you have any queries.

Yours faithfully

Bill Oddy
Head of Community Services

From: John Sellers [REDACTED]
Sent: 10 September 2012 15:10
To: TPH
Cc: [REDACTED]
Subject: Protest.

Dear Sir,

I wish to register my objection to the proposed change in legislation concerning the use of wedding & funeral cars. The proposal to include this service within the Taxi & Private Hire industry is ludicrous,

I run a wedding car business with three cars. I provide a quality service for the day, to enhance the bride & groom,s wedding. The mileage I cover over 12 month's is considerably less than a Taxi would do over the same period. No Taxi's would be able to level of service which a bride & groom should be entitled to on their wedding day!

I am part of the Wedding Services Industry. NOT PART OF THE TRANSPORT INDUSTRY.

My cars are subject to all the routine costs of any luxury car. They are not run on a shoestring, as many Taxi's are. My vehicle's return app 9 mpg, so my contribution in tax is already considerably higher than any Taxi. The current proposal would increase my running costs dramatically.

I do hope that a re-think on this proposal will take place. I hope some common sense will prevail.

Yours sincerely,

John Sellers.....Bliss Wedding Cars. Wakefield.

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Response by Cambridge City Council

LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

CHAPTER 13 - OVERVIEW OF PROVISIONAL REFORM PROPOSALS

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept prebooked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. *(Page 160)*

In many towns and cities in England it is already the case that hackney carriage and private hire trades are strongly separated. Some Councils do not permit private hire cars to install meters, for example. This is not the case in Cambridge where many operators control through the same public telephone numbers both hackney carriages and private hire cars. Hire cars use meters set at the same rates as regulated hackney carriage fares and all hackney carriages and private hire cars are treated as public transport by allowing them into city centre areas where other traffic is not admitted. Thus all hackney carriages and private hire cars are eligible to obtain transponders to pass through the city centre bollards. Because of the statutory Air Quality Management Area in central Cambridge, control is exercised over vehicle ages in order to limit excess pollutants.

Most of the above provisions by hire cars would no longer be feasible if any operator anywhere in the country could operate hire cars in Cambridge with no greater requirement than that the vehicle has passed an MOT test. Control of pollution would have to be exercised by the County Council through limiting the issue of transponders to vehicles suitable to use the Air Quality Management Area. The Law Commission assumes that private hire cars would provide a cheap and cheerful alternative to hackney carriages.

The Council takes the view that this is not a 21st century approach to the public's needs. Although hiring at ranks remains a significant part of taxi provision in Cambridge, especially at the railway station and late at night in the city centre, technology already provides for instant hiring by phone and online which will increasingly blur the distinction between traditional and newer methods of hiring. A thorough modernisation of taxi legislation should recognise this and not seek to entrench old distinctions.

CHAPTER 14 – REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. *(Page 162)*

Agree with the principle of a national regulatory framework, but no specific comment because there will be no real impact on the City of Cambridge.

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. *(Page 164)*

Agree. The reason for regulation is to ensure the protection of the public when hiring vehicles. Limiting regulation via statute to particular types or categories of vehicles may lead to an increase in numbers of a type of vehicle that, whilst lawfully entitled to be on the road (e.g. compliant with construction & use regulation), has safety flaws that the public would be unaware of and over which there would be no control. This may in turn result in a need to amend the primary legislation, which will be costly and time consuming.

Additionally, and as identified in the consultation paper, technological advancements may lead to the development of vehicles that require regulation but fall outside the scope of “limited” legislation.

Restricting regulation to a particular type of vehicle would therefore not be a “future-proof” approach. It would be more appropriate for exemptions to be provided in Regulations and beyond the statutory exemptions, for those setting safety standards (via Regulations or local policy) to determine what vehicles may be licensed.

Question 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? *(Page 164)*

This would simplify the identification of vehicles that need to be licensed, but it would be an oversimplification and wouldn't address the primary function of protecting the public.

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. *(Page 165)*

It seems inappropriate that the drivers of public service vehicles do not undergo criminal record checks when they may be carrying children, but there also seems little point in any overlap. It is therefore agreed that public service vehicles should be expressly excluded from the definition of taxis and private hire vehicles.

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. *(Page 166)*

Agree.

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. *(Page 167)*

Agree

Provisional proposal 8

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. *(Page 168)*

Agree.

Question 9

How, if at all, should the regulation of taxis and private hire deal with:

- (a) carpooling; and
- (b) members clubs? *(Page 170)*

It should not, unless a business is being run.

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. *(Page 171)*

Agree.

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. *(Page 172)*

Agree if they fall within the statutory definition of private hire vehicles (e.g. in the course of a business of carrying passengers, where the primary function of the business is the carriage of passengers).

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers’ exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse? *(Page 174)*

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Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to “streets”. *(Page 175)*

Agree. Ensuring public safety should not be limited to streets.

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? *(Page 177)*

Yes. There is also a case for a similar approach at railway stations where access to private land may be involved.

Provisional proposal 15

The defining feature of taxis, the concept of “plying for hire”, should be placed on a statutory footing and include:

- (a) references to ranking and hailing;
- (b) a non-exhaustive list of factors indicating plying for hire; and
- (c) appropriate accommodation of the legitimate activities of private hire vehicles. *(Page 181)*

It is agreed that there should be a statutory definition of the various activities that are permitted by licensed vehicles and what restrictions relate to a type of activity. However, as set out above, the two-tier scheme is not supported by Cambridge City Council.

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. *(Page 181)*

Agree. Any hiring of a vehicle that involves pre-booking (including instantaneous pre-booking by a technological means) should not be included in the definition of plying for hire.

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”? *(Page 182)*

This definition is still vague. Something like “arrangements made in a public place with the driver of a vehicle that is immediately available for hire, for the hire of that vehicle”.

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained. *(Page 182)*

Agree that where the driver of a vehicle is “plying for hire”, they should be compelled to take passengers anywhere within a set distance/area (e.g. within the boundary of the district authority). If there is no compellability and the discretion to take a fare is left with the driver, the passenger will never know if they will be able to hire a vehicle without pre-booking. Furthermore, the safety of vulnerable persons may be compromised if drivers decide that they do not want to go to a particular destination or will not drive short distances.

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. *(Page 183)*

Disagree with the two-tier system as set out above.

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved. *(Page 184)*

Agree.

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements. *(Page 185)*

They should be required to issue guidance to ensure a consistent approach is taken nationally.

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned. *(Page 185)*

Agree that the term Hackney Carriages should be abandoned but disagree with the two-tier system.

Question 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “prebooked” and did not otherwise lead to customer confusion? *(Page 186)*

Cambridge City Council doesn't believe that there should be a two-tier system so this is irrelevant. However, if the activities of certain vehicles were restricted (e.g. they were unable to “ply for hire”) there should be no terminology on the vehicle that suggests that they can do that activity. Words such as “pre-booked” may be less emphasised or become obstructed (intentionally or not) and this could lead to confusion.

CHAPTER 15 – A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements. *(Page 188)*

Agree and these should be set by Regulation to ensure national consistency and provide public reassurance of the standard of vehicle that will be available. The primary legislation should set out what areas the Regulations should cover as a minimum and should have reference to any EU Directive on the construction of a vehicle.

It is important that national standards assist licensing authorities to address cross-boundary issues such as the ability of taxis licensed by one authority to operate across a mutual boundary by agreement, without having to set up a complete joint licensing arrangement across two whole authority areas.

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards. *(Page 189)*

As only a one-tier system is supported, the national standards should be a minimum and a district council should be able to go beyond this with local policy.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. *(Page 189)*

Agree but as only a one-tier system is supported, the national standards should be a minimum and a district council should be able to go beyond this with local policy.

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers. *(Page 190)*

As only a one-tier system is supported, the same standards should apply.

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? *(Page 190)*

Only a one-tier system is supported.

Question 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? *(Page 191)*

The standards would need to be general enough to cover any category of vehicle, or otherwise they would need to be vehicle specific. Either way would lead to difficulties because if they are vehicle-type specific, new Regulations may be required every time there are changes or modifications. Similarly if the standards are too general, they may be pointless.

Additionally, there is concern over the length of time that it may take to change Regulations. There would need to be a mechanism for rapid change in the event that a safety hazard is identified, e.g. if a particular category/make/model of vehicle is withdrawn by a manufacturer or there is an accident resulting from a safety flaw that could occur with any other licensed vehicle of the same type.

This could be overcome by giving district councils the power to refuse or revoke a Licence for “any reasonable cause” or by allowing for the setting standards that are over and above the national minimum.

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (*Page 192*)

Only a one-tier system is supported so it is considered that only one set of national conditions would apply.

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety. (*Page 192*)

Agree

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. (*Page 193*)

Agree. However, there needs to be a mechanism to rapid change if it is urgently required. This is why it is recommended that the power to go over and above the national minimum standard is given to district councils.

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? (*Page 193*)

A review of all existing local policies would be necessary and the highest policies be applied to avoid a lowering of standards. It would no doubt be advantageous to refer to a technical advisory panel to avoid challenges.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. (*Page 193*)

As only a one-tier system is supported, it is considered that the power to set standards locally that are above the minimum national standards should apply to all licensed vehicles.

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? (*Page 194*)

Yes, it is considered that local standards should also be restricted to ensuring public safety, which would include public health for, e.g., air quality matters. Anything over and above that (e.g. a uniformed colour to improve the appearance of a city centre,

rather than assisting passengers in identifying licensed vehicles) would be excessive and unnecessary.

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? *(Page 194)*

Yes, to ensure that each case can be effectively dealt with on its individual merits.

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? *(Page 195)*

Agree in principle, but there should be some opt-out clause if a licensing authority considers that cooperation would not benefit its constituents. If necessary this could result in some inexpensive external mediation/decision making.

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. *(Page 196)*

Agree, although this should not be compulsory unless there is some opt-out clause as suggest in response to question 37.

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. *(Page 196)*

Agree that this would give licensing authorities greater control over the distribution of vehicles within its district. However, it should definitely be a discretionary power.

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? *(Page 197)*

With the current difficulties in enforcing the distinction between hackney carriages and private hire vehicles, such a power would cause more confusion, generate more enforcement and it would be pointless without the ability to limit the number of licences issued.

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. *(Page 198)*

Disagree because control would be lost. It is unlikely that there would be a central database where live records could be checked of licensed drivers/vehicles

Provisional proposal 42

We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs. *(Page 199)*

Agree, provided that sufficient enforcement powers are given to licensing authorities to deal with such vehicles in their district.

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares. *(Page 200)*

Agree that there should be a power to set the maximum fare for any contract made between the driver and a passenger on the street and that the fares for pre-booked journeys should be left to the person taking the booking to determine and agree with the passenger. The regulation of fares where the customer may be unable to survey the market (e.g. when hiring on the street) is considered essential to protect vulnerable persons.

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? *(Page 200)*

Only a one-tier system is supported, but it is considered that market forces should dictate the cost of pre-booked fares and only the cost of on-street hirings and contracts made directly with the driver should be regulated.

CHAPTER 16 – REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING

Question 45

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? *(Page 203)*

It is agreed that the minimum standard should be set out in Regulations and these should address convictions. However, local discretion should also be provided to consider intelligence, complaints etc.

Provisional proposal 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. *(Page 204)*

Agree although there should be an ability to revoke a Licence if the owner of the vehicle continually fails to maintain the vehicle in a satisfactory condition. Without this, there would be a continuous cycle of inspection and suspension of Licences until the vehicle is again satisfactory, with no ultimate sanction.

Question 47

Should national vehicle safety standards be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions? *(Page 205)*

(b) to allow for “future-proofing”.

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. *(Page 207)*

Agree that there should be control over the person accepting pre-booked fares.

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? *(Page 208)*

Yes, any pre-booked journey to should go through an “operator”.

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. *(Page 209)*

Agree. However, the operator should remain responsible for any intermediaries that they use and liable for any licensing offence that they commit.

Question 51

Should “fit and proper” criteria in respect of operators be retained? *(Page 210)*

Yes, to ensure control over those running companies.

Provisional proposal 52

Operators should be expressly permitted to sub-contract services. *(Page 210)*

Agree that sub-contracting services to other Operators would benefit the public.

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? *(Page 210)*

Whilst this would be desirable, in practice the time that would be taken to make a record of each booking would not lead to an efficient transport system, so record keeping is not supported.

CHAPTER 17 – REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers. *(Page 213)*

Agree. This should be determined through market forces as increased competition will benefit the public. The role of the regulator should not be to ensure that a particular income is made by licence holders.

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? *(Page 213)*

There is currently no limit on the number of vehicles licensed by Cambridge City Council so there would be no problems.

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed? *(Page 215)*

No, the role of the regulator should be to protect the public and not provide/ensure a job or a particular income is available.

CHAPTER 18 – TAXI AND PRIVATE HIRE REFORM AND EQUALITY

Question 57

Should there be a separate licence category for wheelchair accessible vehicles?

This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. *(Page 217)*

It is not considered that a separate licence category is created. However, the provision of additional rank space for wheelchair accessible only vehicles should be explored and Licensing Authorities should have the ability to limit the use of particular rank spaces to such vehicles with this rank space ideally exceeding the rank space that is available to non-accessible vehicles. This would encourage the purchase of such vehicles and would hopefully ensure that service users that require such vehicles have immediate access to them on the street.

There should be a compellability requirement on all drivers to take passengers when “plying for hire” and this would include drivers of wheelchair accessible vehicles.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? *(Page 217)*

Agree in principle but a reduced fee is unlikely to compensate for the additional cost of purchasing an accessible vehicle.

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? *(Page 217)*

It is important both to ensure some wheelchair accessible provision and some standard saloon provision for people who cannot access high step vehicles.

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. (Page 218)

Agree as this should be determined locally depending on the needs of the district. However, Licensing Authorities should be required to have a policy on wheelchair accessible vehicles and be obliged to review the policy at set time periods.

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. (Page 219)

Agree and this should not be limited to a particular area of disability.

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. (Page 219)

Agree. This is currently a condition of vehicle licences in the City of Cambridge and has proven effective.

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? (Page 220)

An obligation to stop for disabled passengers when the vehicle is available for hire would benefit those service users.

CHAPTER 19 – REFORMING ENFORCEMENT

Question 64

Should authorised licensing officers have the power to stop licensed vehicles? (Page 222)

Yes.

Question 65

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”. (Page 223)

This is not currently an issue in the City of Cambridge.

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? *(Page 223)*

It would be desirable, but not practical due to an inability to store vehicles.

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how? *(Page 225)*

Yes, there should be an ability to issue fixed penalty notices for breach of Licence conditions and minor offences. This should be an alternative to suspension/revocation of a Licence or prosecution and should not be a replacement for these actions.

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. *(Page 225)*

Agree, but there should be funding available for this, e.g. a central fund for which bids are made. This would prevent the licence fees in “honey-pot” districts from being excessively high to cover the cost of enforcement of out-of-district vehicles/drivers, which would otherwise encourage drivers/vehicles to be licensed in other districts whilst still operating in the “honey-pot” district.

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? *(Page 226)*

Yes, it should extend to suspension, but the power to revoke a Licence should remain with the issuing authority who should be obliged to consider any action taken by a different licensing authority. This could be achieved by requiring the enforcing authority to give notice of action to the relevant licensing authority with a set time period (e.g. 24 hours).

CHAPTER 20 – REFORM OF HEARINGS AND APPEALS

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. *(Page 230)*

Agree.

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. *(Page 231)*

Disagree as this would be time-consuming and costly, particularly as the decision should have been correctly made. The only internal right of appeal should be if a

decision is made by an Officer and in those situations a right of appeal to members (and a fair hearing etc) should always be available.

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court. *(Page 232)*

Agree.

Question 73

Should there be an onward right of appeal to the Crown Court? *(Page 233)*

Disagree. As with the Licensing Act 2003, there should not be an onward right of appeal against a decision. The right to judicially review an unlawful decision should remain.

From: [REDACTED]
Sent: 10 September 2012 15:31
To: TPH
Subject: Submission from Driver-Guides Association

Attachments: Law Commission Submission from DGA 100912.docx
Re Taxi and Private Hire Consultation Paper and request for comments.

Dear Members of the Law Commission

On behalf of the Driver-Guides Association, I am attaching our submission in response to your Consultation Paper.

In our submission we do not make any reference to Scotland, but we do have members in Scotland. One of the areas of concern we have in Scotland is that we are aware that guides who are not members of our Association have in the past rented vehicles for the purpose of driver guiding and we feel that it is unlikely in these cases that appropriate Private Hire Insurance was in force at the time. This is why we welcome legislation which will prevent this happening in England and Wales.

Yours faithfully

Ian Murray

Chairman, Driver-Guides Association

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THE DRIVER-GUIDES ASSOCIATION

THE PROFESSIONAL ASSOCIATION OF BLUE BADGE DRIVER-GUIDES

6 September 2012

Dear Members of the Law Commission

I am writing on behalf of the Driver-Guides Association (DGA), a group of professional Blue Badge driver guides in Great Britain who provide transport services ancillary to their provision of guiding services.

We thank you for this opportunity to comment on the Law Commission's paper 'Reforming the Law of Taxi and Private Hire Services'. We note your approach is to ensure that the regulatory system does not impose unnecessary costs on the industry, and that it is structured in the right way to accomplish its supposed ends. We are grateful for this approach. We are pleased to note several instances in the paper which refer to the tight fit of the DGA into the present Private Hire legislation. That is, 3.70, 14.36 and 14.50.

The DGA believes that the best interests of the public and of professional standards for driver-guides are served by driver-guides remaining under the Private Hire legislation. However, it is hoped that sufficient flexibility is built into the new legislation such that the particular needs and issues of driver-guides can be met without the current feeling of 'a square peg having to be fitted into a round hole'.

The DGA is also aware of the current disparity of licensing for members around the country and is supportive of the same rules and regulations applying everywhere. We have members who are licensed under the Transport for London Private Hire legislation, members who are licensed under local authorities, and members with no licensing requirement at all.

Regarding the current legislation in London, we see the good points as:

- 1 Criminal Records Bureau check.
- 2 Three-year Private Hire driver licence with medical check.
- 3 Annual vehicle check.
- 4 Six monthly MOT.
- 5 Identifying marking as a Private Hire vehicle which assists with parking/pick up of clients from hotels and the use of dedicated traffic lanes, as appropriate.

Regarding the current legislation in London, we see the bad points, when applied to Blue Badge Tourist Guides as:

- 1 Operating Centre requirement.
- 2 Wearing of Private Hire Driver Badge.
- 3 External identifying licence plate.
- 4 Age Limits for Private Hire vehicles
- 5 Burden of charges for the self-employed.
- 6 Additional qualifications such as topography and disability awareness.





THE DRIVER-GUIDES ASSOCIATION

THE PROFESSIONAL ASSOCIATION OF BLUE BADGE DRIVER-GUIDES

I would like to discuss each of these points in turn.

Operating Centre requirement In 16.25-29 the justifications for retaining operator licensing are discussed. Basically, there are two. The first is that the Operator becomes a partner in the enforcement of vehicle and driver standards and requirements. The second is that bookings come through the Operator. Neither of these justifications is accurate when applied to Blue Badge driver-guides.

As to enforcement, both the Institute of Tourist Guiding (Institute) and the DGA require a member driver-guide to provide copies of

- Current Private Hire Vehicle Licence where applicable
- Current Private Hire Driver Licence where applicable
- Up to date MOT (6 monthly in London)
- Private Hire or Hire and Reward insurance

The Institute requires this before allowing the guide to be registered as a driver-guide and to be listed as such in its Directory of Members on which tour operators, travel agents and concierges rely to make bookings with the individual guide. The DGA constitution requires this before a driver-guide can become a member.

As to bookings, all driver-guides are self-employed and accept their own bookings. They need no intermediary. Each one markets and contracts for himself.

Therefore, we suggest that the Operating Centre requirement be dropped where there is a professional body that sees to enforcement and where booking is done directly with the driver. In other words, Blue Badge driver-guides would not have to purchase an Operator's Licence. This would also do away with what has become an administrative nightmare for Transport for London/LTPH.

Wearing of Private Hire Driver Badge A driver-guide already wears the Blue Badge which has his/her name engraved upon it. This adequately identifies the driver for the clients. The clients are called for by name. Another badge gives an unprofessional look to the driver-guide. While we have asked for an exemption to this requirement, our request has not yet been acted upon.

External Identifying Licence Plate The existing window stickers, both front and rear, are sufficient.

Age Limits for Private Hire vehicles We note your Question 29 and your comments in 4.58. We remain concerned that across the board requirements as to vehicle's characteristics may result in arbitrary age limits. We have just been through this, securing an exemption from the 10 year age limit for London DGA member's vehicles.

Burden of Charges for the Self-Employed As mentioned previously, each driver-guide is self-employed. Further, the work for tourist guiding is seasonal. Finally, within the season, not all work is done using the car. For all these reasons, the schedule of charges for the driver licence and the vehicle licence are very costly. We recognize that Transport for London incurs the same costs in





THE DRIVER-GUIDES ASSOCIATION

THE PROFESSIONAL ASSOCIATION OF BLUE BADGE DRIVER-GUIDES

licensing driver-guides as it does other Private Hire Drivers. Still, we urge that a more equitable balance be struck here between our burdens and their costs.

Additional Qualifications Blue Badge Tourist Guides receive a great deal of training and must pass stringent exams before being awarded a Blue Badge by the Institute. For example, Blue Badge guides are already qualified in topography and disability awareness. (In fact, disabled tourists form a niche market for driver-guides.) Therefore, it is redundant and expensive to require Blue Badge driver-guides to again qualify in these, and other, areas.

Finally, we are in favour of Proposal 20 which follows London practice on the leisure and non-professional use of Private Hire vehicles and permits such use.

Once more, thank you for this opportunity to comment on the proposed reforms. If you have any questions on the points we have raised, I would be glad to talk further with you.

Yours faithfully

Ian C. Murray
Chairman



Cheshire West and Chester
Response to the Law Commission's Consultation Document:
Reforming the law of taxi and private hire services

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. *(Page 160)*

Cheshire West and Chester (CWAC) would support a unified category of licensed vehicle. The targeted regulation which would be maintained within a two tier system could, in our view, be equally maintained if there was one category of vehicle.

A hackney carriage can, under the present law, accept pre-booked fares, be hailed on the street and wait at ranks. This is what a unified vehicle would do. Fares (hail & rank) may still be regulated but where a pre-booking is made the free market would apply.

REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. *(Page 162)*

It was felt that London should be included. Justification should be given for London remaining outside.

It was also felt that the standards in London should be raised to match the rest of the country.

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. *(Page 164)*

We would welcome the broader definition of vehicles deemed to be hackney carriage and private hire vehicles – this would require detailed standards for each particular vehicle and it is suggested that the drivers of all types of licensed vehicle including pedicabs should have a vocational licence - pedicabs carry passengers on the road in exactly the same way as a traditional hackney carriage/private hire vehicle – a vocational licence is necessary to protect passenger safety and other road users.

8 passengers and below should be licensed as Private Hire/Hackney Carriage

9 passengers and above should be PSV's.

Question 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? *(Page 164)*

Same as (3) above.

Anything used for public hire should be licensed.

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. *(Page 165)*

The current system should remain in place where any vehicle capable of carrying 9 or more passengers is designated as a PSV

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. *(Page 166)*

Agreed.

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. *(Page 167)*

Agreed. Statutory Guidance.

Statutory national guidance is necessary to assist consistency and to ensure that all vehicles whether licensed by a local authority or the Traffic Commissioner meet minimum standards – this will not only benefit the regulator but also the operator of such vehicles.

Provisional proposal 8

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service.

(Page 168)

The tightening up of regulations on volunteers is necessary. For example there should be a statutory requirement to keep records of mileage and payments.

The definition of “Genuine Volunteers” needs to be clarified.

Other considerations:

Public Liability insurance

Health of drivers

Condition of vehicle

Records must be made available to HMRC.

Must be licensed unless they fall within an exemption.

Question 9

How, if at all, should the regulation of taxis and private hire deal with:

(a) carpooling; and

(b) members clubs? *(Page 170)*

Carpooling: should not come under the scope of taxi/PHV legislation.

Members' clubs: Pink Ladies etc. are now thriving. This is a loophole which needs closing. These operations should be licensed.

The licensing regime should be designed to control the safety of all passengers, trying to regulate taxis which can only be hailed by a specific class of person in our view would be difficult to regulate and could ultimately lead to artificial fears to personal safety. We also wonder how you would decide what proportion of the fleet should be dedicated to vehicles specific to the identified group of persons.

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. *(Page 171)*

Improved regulation of the hackney carriage and private hire trades would be facilitated by the provision of national standards and statutory guidance including clear definitions of both types of vehicle. The concept of everything is included unless it is specifically exempt should be adopted.

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. *(Page 172)*

Agreed.

There is a case for reviewing the operations of wedding car providers – many of these vehicles are used beyond the scope of the wedding ceremony i.e. taking the bride and groom to the airport – it is our view that this is private hire and licences are required.

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse?
(Page 174)

NO

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets". *(Page 175}*

Agreed, we believe that regulation should apply wherever a hackney carriage and private hire vehicle operates.

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? *(Page 177)*

No special provision for airports.

Provisional proposal 15

The defining feature of taxis, the concept of “plying for hire”, should be placed on a statutory footing and include:

- (a) references to ranking and hailing;
- (b) a non-exhaustive list of factors indicating plying for hire; and
- (c) appropriate accommodation of the legitimate activities of private hire vehicles. *(Page 181)*

A clear definition of “plying for hire” is necessary to ensure consistency of enforcement and to ensure that both trades know the limits of their operations.

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. *(Page 181)*

Agreed

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”? *(Page 182)*

Definition of “Street” and “Plying for Hire” is necessary for consistency of enforcement

Covered in previous question.

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained. *(Page 182)*

This should be retained specifically on grounds of combating discrimination

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. *(Page 183)*

Pre-booking via an operator should be retained for private hire vehicles

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved. *(Page 184)*

Allowing leisure use, although attractive to the trade, would raise a number of serious enforcement issues. The current provisions are unambiguous and easily enforced. Permitting leisure use will introduce ambiguity and the associated enforcement issues.

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements. *(Page 185)*

Local authorities should be involved in the drafting of the guidance. Suggest that a Working Party be established.

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned. *(Page 185)*

There is need for care here as the public are generally unaware of the difference between a hackney carriage and private hire vehicle- referring to them both as TAXIS. In general terms no major objection is raised by this authority to hackney carriages being renamed taxis (they already have a taxi sign on the roof and stickers on body work). If changes are made it is suggested that public information about the differences between the way each vehicle is hired is required.

Question 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion? *(Page 186)*

NO.

What about similar or like sounding names, such as ABC Kabs? (Private Hire Operator).

There should be a clear distinction between the two.

A REFORMED REGULATORY FRAMEWORK**Provisional proposal 24**

Taxi and private hire services should each be subject to national safety requirements. *(Page 188)*

Yes.

Local authorities should be consulted – Working Party.

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards. *(Page 189)*

We believe that as far as taxis are concerned local authorities should be able to impose higher standards - for the reasons specified in the consultation doc paragraph 15.10. However, we would urge that the minimum standards should ensure driver and public safety for example there should be a minimum inspection frequency based on an enhanced MOT standard. The standards should also be regularly reviewed and amended as appropriate and all amendments implemented on a national basis and apply to all vehicles irrespective of the date they were licensed.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. *(Page 189)*

As per question 25

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers. *(Page 190)*

In addition to safety, there should be more National Standards.

For example:

Quality of training
Customer service
Disability awareness
Health and safety

A Knowledge Test should be required for both private hire and hackney carriage drivers.

Like SIA all drivers should have a recognised qualification.

Should be a fit and proper test for proprietors.

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? *(Page 190)*

Yes.

Keep discretion to advertise as approved by the Council.

Question 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? *(Page 191)*

Vehicle type saloon v custom built vehicle may have an impact on the type of safety equipment employed- eg. Screens/dividers

Different types of wheelchairs restrict standardisation.

Care should be taken not to deprive existing vehicle proprietors until they acquire a vehicle which meets the new standards.

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? *(Page 192)*

No.

Whilst this authority would suggest that driver safety standards should be the same across both trades it recognises the difficulty in establishing the same standards across all vehicle types used in both trades. Wherever possible the standards should be the same across both trades.

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety. (Page 192)

Agree

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. (Page 193)

Agree

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? (Page 193)

The constitution of a “technical advisory panel” should form part of the consultation as suggested at proposal 32. A local authority representative should be on the panel in addition to representatives with technical expertise.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. (Page 193)

Yes.

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? *(Page 194)*

Possibly, could reduce legal challenge if limits were set- but clarification needed.

More consultation between Councils.

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? *(Page 194)*

Yes.

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? *(Page 195)*

Local arrangements should be maintained

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. *(Page 196)*

This needs careful consideration – flexibility has benefits as well as drawbacks.

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. *(Page 196)*

This authority would welcome the ability to create or remove zones – this will permit the authority to set standards that reflect and address local circumstances. This is particularly important to authorities with a mixture of large urban and rural areas as is the case for this authority.

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? *(Page 197)*

The question here is how this would affect the market, drivers generally only want to work at peak times and this proposal could reduce vehicle numbers at non-peak times ultimately producing a shortage of vehicles during non-peak and a glut at peak times. Market forces currently dictate availability and should remain the case.

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. *(Page 198)*

We believe that the driver, vehicle and operator of private hire vehicles should remain licensed by the local authority in which they intend to operate - this facilitates enforcement and gathering of information. Currently operators accept bookings from outside of their area but subcontracting outside of the licensed district is not permitted. Sub-contracting outside of the district should be allowed so long as a record is kept at the operator's premises where the vehicle and driver were despatched from.

Provisional proposal 42

We do not propose to introduce a “return to area” requirement in respect of outof-area drop offs. *(Page 199)*

Refer to Ans 41 above

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares.
Licensing authorities should not have the power to regulate private hire fares.
(Page 200)

We believe that the current system of the local authority setting the hackney carriage fares should remain. Local authorities should not set fares for private hire vehicles- this should be governed by market forces/local competition.

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? *(Page 200)*

No.

REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING**Question 45**

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? *(Page 203)*

We believe that driver safety standards should be set by the Sec of State and Welsh Ministers as in (b) and should be in the form of guidance- such guidance could be amended periodically and more easily than if the standards were set out in primary legislation

Provisional proposal 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. *(Page 204)*

Our view is that vehicle proprietors should be subject to a test of good character, good business repute as they are in control of drivers and vehicles.

Question 47

Should national vehicle safety standards be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? *(Page 205)*

We believe that vehicle safety standards should be set by the Sec of State and Welsh Ministers and should be in the form of guidance- such guidance could be amended periodically and more easily than if the standards were set out in primary legislation

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. *(Page 206)*

Yes, operator licensing should be mandatory – we believe that the licence should make it clear that the operator has equal responsibility with the vehicle proprietor to ensure that any vehicle for which bookings are taken is fully compliant with the national safety standards. Local Authorities should also retain the ability to attach conditions to the Operator’s Licence to reflect local needs/working practices. The level of responsibility for the conduct of the driver should also be clearly expressed within any guidance/on the licence.

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? *(Page 208)*

Yes. If taxi radio circuits act as operators, then they should be subject to the same legal requirements as phv operators.

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. *(Page 209)*

Yes.

Question 51

Should “fit and proper” criteria in respect of operators be retained? *(Page 209)*

Yes.

Enhanced CRB checks.

Persons within Limited Companies should also be checked.

Provisional proposal 52

Operators should be expressly permitted to sub-contract services. *(Page 210)*

Yes. However we would require customer to be informed of the sub-contract service.

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? *(Page 210)*

Yes- we see no justification for excluding this requirement from hackney carriage legislation – record keeping assists local authorities to investigate complaints.

REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers.

(Page 213)

We believe that the DfT best Practice Guidance on the issue of restricting numbers-i.e. that local authorities should not restrict hackney carriage numbers should be followed.

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? *(Page 213)*

There is the potential for traffic congestion and over ranking (in city centres) – however, we believe that market forces should be allowed to dictate and in a short period of time these issues would dissipate.

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed?

(Page 215)

We agree that entry could be controlled by raising standards and any transitional arrangements do need to be carefully considered as we envisage difficulties in determining on what basis entry would be determined eg who to refuse and how many at a time.

TAXI AND PRIVATE HIRE REFORM AND EQUALITY

Question 57

Should there be a separate licence category for wheelchair accessible vehicles?

This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. *(Page 217)*

We believe that no single vehicle can be suitable for all types of wheelchair and all disabilities; there does need to be a mechanism for incentivising wheelchair accessible vehicles or those adapted for disabled access (if suitable conditions do not form part of the national standards). Consideration could be given to permitting local authorities to designate specific ranks to be wheelchair accessible and only used by wheelchair accessible vehicles. Other ranks to be priority to partially sighted or mums with prams for example.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? *(Page 217)*

We do not believe that a lower licence fee would incentivise proprietors to purchase vehicles that meet certain accessibility standards- generally due to the increase purchase costs of such vehicles. In addition, local authority budget are under strain and it is necessary for local authorities to recover their reasonable costs though the licensing fees. In reality, enforcement costs can be higher for wheelchair accessible vehicles due to the additional time taken to inspect ramps, restraints etc during enforcement activities (in addition to the additional checks necessary to undertake the periodic inspections in compliance with licensing conditions).

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? *(Page 217)*

The proportion of accessible vehicles needs to be decided locally depending on local population and need as well as geography in discussion with local disability groups. Other financial incentives as well as reduced fees, can be reflected in tax benefits and road fund licence reduction. National quotas are artificial and hard to determine.

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. *(Page 218)*

See above

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. *(Page 219)*

Yes.

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. *(Page 219)*

We believe that the display of information about how to complain is necessary and we also believe that the issuing of receipts which detail driver number, licensed vehicle number and details of how to complain to the licensing authority should also be mandatory.

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? *(Page 220)*

We suggest the provision of dedicated Hailing Points for disabled passengers allowing safe pick up.

REFORMING ENFORCEMENT

Question 64

Should authorised licensing officers have the power to stop licensed vehicles?

(Page 222)

We believe that Police assistance in this matter currently works well – if licensing officers had the power to stop vehicles there are issues of identification and health and safety to be addressed. Generally, we are not in favour of this proposal.

Question 65

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”.

(Page 223)

This was not perceived as being a real problem outside of London.

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? *(Page 223)*

It would be desirable, but would it be practicable? The power to suspend is adequate and there are sanctions for refusal to obey instruction.

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how? *(Page 225)*

Yes, in appropriate circumstances. The use of FPN's can be imposed for minor offences effectively to avoid lengthy investigation and court process.

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. (Page 225)

It is difficult to see how this would operate in practical terms, difficulties with sanctions, administrative costs, legal fees and fines.

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? (Page 226)

We foresee potential difficulties in decision making process, appeals reinstatement of licence.

REFORM OF HEARINGS AND APPEALS**Provisional proposal 70**

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. (Page 230)

Yes, as is at the moment.

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. (Page 231)

No, careful consideration of the facts is always undertaken before refusal to grant or suspension or revocation of an existing licence takes place. We do not feel therefore that we should be required to reconsider our decisions. Unless with limited application – errors in paperwork for example.

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court. (Page 232)

Yes.

Question 73

Should there be an onward right of appeal to the Crown Court? (Page 233)

No.

*The Magistrates court has sufficient powers to deal appropriately with an appeal.
Involving the Crown Court would increase costs overall.*

Other Comments:

Licensing Authorities should have access to Motor Insurers' Database.

Local Authority should have powers conferred to its officers to enable them to issue fixed penalty tickets to vehicles parked on ranks.

We would like to further explore the introduction of a one tier system.

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LCCP203

8th September 2012

Following extensive online consultation and a series of Consultative events around the country the National Committee of NALEO has now considered all member responses received. We have been instructed by the National Chair and Committee to forward this response for and on behalf of NALEO members as our formal response to the Law Commission’s consultation on reforming the taxi and private hire legislation. For obvious reasons not all members agree with all responses but in all cases the majority view has been stated.

In order to assist the Commission NALEO wishes to state in a formal preamble the basis of the reasoning behind the responses as given and trusts that the Commission will view and consider our responses in the light of NALEO’s considered vision for the future of taxi and private hire licensing throughout England and Wales.

It is NALEO’s view that, having seen the way that technology has changed, and continues to change, the face of the hackney carriage and private hire trades, then any new legislation should be an “Enabling Act” which sets down the principles of licensing, *(ie the protection of the travelling public, light touch but effective enforcement, together with fees which are ring-fenced to the service and which should be adequate to cover all administration and enforcement costs without making the service a burden to the Council tax payer or to the licensees themselves.)*

Any resultant “Enabling Act” should give Ministers the power to set any required standards and definitions under Statutory Instruments which will then lay down national regulations for all major items of concern. The laying of any such regulations should be subject to effective consultation with interested parties and general public. This would ensure that any new legislation can quickly be updated to reflect technological advancements or changes in Society’s perceptions as to what is required. If, for example, you consider the size and abilities of mobile telephones in 1976 compared to now in 2012 the need for such an approach is self-evident. Legislation which can easily react to changes is essential if licensees are to be able to grow their businesses in reaction to future changes.

It is also NALEO’s view that the majority of the many individual items in other Acts which current affect hackney carriage and private hire licensees of any type should be re-enacted in one overarching piece of specific legislation. This would create clarity for all, both service provider and service user alike.

Having stated all of the above we are respectfully tendering the following comments for the consideration of the Law Commission together with the fervent hope that better legislation is enacted in the near future so as to better protect the travelling public at large and to enable the *bona fide* trades licensees to better go about their lawful businesses under a more efficient regulatory regime.

Anne Aspinwall
National Honorary Secretary

John Thompson
National Honorary Treasurer,

For and on behalf of the National Committee and members of NALEO

NALEO RESPONSES AND COMMENTS ON THE LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares.

AGREED. THE MAJORITY OF MEMBERS PREFER A TWO TIER SYSTEM

In most areas in the country the two trades “taxi” and “private hire” mainly service different needs- Taxis service immediate requirements and private hire service pre-planned requirements. The two similar uses are not in all respects identical and we would agree in retaining the separation and would add the reasoning below so as to explain:

13.5(1) It should never be the case that private hire are seen as a second class service with lower standards. Therefore this proposal is appropriate as national standards will remove many of the identification problems etc currently experienced;

13.5(2) Local standards for maximum “Taxi” fares should be retained but a national formula of calculation should be considered. Also signage provision for PHV’s seems sensible within national conventions re wording;(ie “taxi” allowed or not nationwide)

13.5(3) This is essential to remove anomalies and hirer confusion between small PSV’s (*airport taxis/limousines/ fire engines*) and taxi/ private hire;

13.5(4) Such provision needs careful consideration. To date, in terms of these vehicles wheelchair provision has been focussed on. As one LA found out in *Alma Lunt v Liverpool CC*, disregarding other forms of disability can be expensive;

13.5(6) If Councils are forbidden from limiting numbers of hackney carriages, then it will be market forces in each area which determine how many of each type of vehicle are needed or are economical to run profitably. One problem of initial over-provision of taxis could well be congestion with vehicles waiting to access ranks until market forces equalise demand for licences and a resultant increase in enforcement costs.

13.5(7) It is agreed that economic pressures may give rise for a need for a more proactive set of enforcement tools and powers as many licensees may be tempted to cut corners to lessen costs and maintenance standards may suffer. Consideration of fixed penalty charges whether endorseable, non-endorseable or civil should be consulted upon;

REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform.

AGREED

NALEO does not believe in this global age that London needs separate legislation to the rest of England and Wales. NALEO believes that with the exception of TfL being considered on a par with Local Authorities there is no reason why any new Act should not apply across all of England and Wales. This would give clarity and certainty to all enforcement officers and licensees alike.

NALEO does however believe that any new Act should expressly require any authority to expend money on enforcement, including working with local police forces and that any new Act must enshrine the existing ring-fenced nature of licence fees but as an inclusive “from first investigation to final proving of the offence” basis.

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver.

AGREED

NALEO agrees with the premise that any vehicle with a capacity of eight passengers plus the driver which is provided for hire with the services of a driver should be licensed either as a taxi or private hire vehicle. If above 8 passenger seats plus a driver it should be licensed as a PSV. **There should be no grey area or cross over permitted and S265 of the Transport Act 2000 should be repealed.**

Horse drawn and pedicab vehicles should also be subject to licensing albeit with simpler standards and that the same seating capacities should be used to determine status. At the moment if someone produced a four horse rig with a carriage which carried 38 passengers it would not be a PSV but could be a Horse Omnibus. NALEO does not know of a Council with the specialist testing facilities to verify such a vehicle was fit for use. Such higher capacity vehicles should be PSV.

Question 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence?

NO ADVANTAGE

We do not believe that there would be any advantage to restricting licensing to motor vehicles. If it does hire and reward work it should be hire and reward licensed. By drivers being required to have a DVLA/EEC driving licence at least indicates that someone is aware of the basics of moving a vehicle on a road legally within the United Kingdom.

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers.

AGREED

We agree with the premise that any vehicle with a capacity of eight passengers plus the driver which is provided for hire with the services of a driver should be licensed either as a taxi or private hire vehicle.

If above 8 passenger seats plus a driver it should be licensed as a PSV. There should be no grey area or cross over permitted and S265 of the Transport Act 2000 should be repealed.

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis.

AGREED

This proposal makes sense in removing a grey area from the current outdated legislation.

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency.

AGREED

If the statutory guidance is of a binding nature so as to ensure all Traffic Commissioners must follow its' terms of reference then again we agree with the premise that any vehicle with a capacity of eight passengers plus the driver which is provided for hire with the services of a driver should be licensed either as a taxi or private hire vehicle. This proposal makes sense in removing a grey area.

Provisional proposal 8

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service.

AGREED WITH PROVISIOS

We believe that the starting point should always be that a vehicle seating no more than eight passengers plus the driver, provided for hire with the services of a driver, should always be required to be licensed either as a taxi or a private hire vehicle. Therefore if a vehicle is so used there should be a simple, strict liability statutory offence, preferably endorseable.

Any new legislation could provide that the Ministers may, from time to time, by regulation made under Statutory Instrument, provide for class or classes of use which are covered by statutory defences. (*An example of such a defence is contained with S167 of the Criminal Justice and Public Order Act 1994 Touting section in respect of persons working for the holder of a PSV operator’s licence*).

Many people would agree that, initially the following could be given defences:

1. Child-minders/ nurseries where no separate charge was made;
2. Hospital or Social Volunteers who did not exceed a number of hours or specified distance per week;

Where however someone:

1. Acts as a hospital car driver or “volunteer” and does so many miles that, due to their “income” from volunteering they secure a mortgage on the proof of earnings or;
2. Where someone incurs Inland Revenue tax liability due to their receiving payments over and above National Minimum wage then;

It should be for those persons to prove that they should not be licensed. They should keep expense records or face the consequences of avoiding licensing. We also recommend that Ministers should be empowered to issue statutory guidance on this, again which should be of a binding nature.

Question 9

How, if at all, should the regulation of taxis and private hire deal with:

- (a) carpooling; and (b) members clubs?

SEE PREVIOUS ANSWER

In line with our previous answer we believe that the starting point should always be that a vehicle seating no more than eight passengers plus the driver, provided for hire with the services of a driver, should always be required to be licensed unless the Ministers (*perhaps by regulation made under Statutory Instrument*), provide for class or classes of use which are covered by statutory defences. We believe carpooling should be one such defence and do not believe members clubs, such as “Pink Ladies” should be subject to such a statutory defence. By giving Ministers powers to make orders it will allow some measure of common sense approach to be taken as each case arises.

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes.

AGREED

The need for national standards of fitness is clear. Any other approach leads to loopholes. However we can agree that the parent statute could well allow for Ministers to make provisions via Statutory Instruments which could, in certain well defined and specific circumstances exclude some hire and reward vehicles etc from the provisions of the Act. By allowing Ministers to react to a developing situation prevents the need to go through the full parliamentary process of amending an Act. Secondary legislation can be quicker and more responsive to as yet unforeseen developments.

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation.

AGREED

The basic principle of the Act requiring all hire and reward work to be licensed unless the activity is subject to a statutory defence or a Ministerial Order made under SI is much more responsive to future changes. This proposal sits well with proposal 10 as if Ministers then wished to exclude specific wedding work rather than as currently generalist wedding work then, following consultation, such an order could be made.

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse?

NO BENEFITS

In the main experience taught licensing officers that exemptions were utilised by persons seeking to cut corners, and provide a service at lesser cost than their bona fide licensed competitors.

The parent Act should not re-introduce a full exemption but giving Ministers the ability to make exemptions or statutory defences available via Statutory Instrument is in part a way of future proofing the Act to allow for changes as yet unforeseen which may occur in the future.

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets"

AGREED

The definition "within the district" (as applied to Horse Omnibuses) should apply. This would mirror the definition of public place as contained within the Criminal Justice and Public Order Act 1994 section on touting for the services of a hire car. (We suggest repealing and re-enacting that provision in the new Act).

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank?

YES

Taxi and Private Hire regulation at airports/ seaports should follow the national model and they should be regarded as public places.

These facilities should however, as monopolies, be obliged to provide easy access and pick up points for pre-booked PHV/ HCV and also good access to ranks where local taxis stand for hire.

To fail to do so means the public's choice of vehicle is either restricted or can only be accessed an additional cost.

Provisional proposal 15

The defining feature of taxis, the concept of “plying for hire”, should be placed on a statutory footing and include:

- (a) references to ranking and hailing;
- (b) a non-exhaustive list of factors indicating plying for hire; and
- (c) appropriate accommodation of the legitimate activities of private hire vehicles:

AGREED

We would however go further and allow Ministers the powers, by statutory instrument, to make regulations extending the definitions should an unforeseen loophole arise once the Act is in force. As (b) is a non-exhaustive list the Commission seems to have implied this could be necessary.

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services.

AGREED

Technological methods of pre-booking taxi services should not consider hailing and ranking but they should be considered in determining what is “operating” a private hire service whether using licensed taxis or licensed private hire vehicles.

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”?

AGREED

There would be advantages. Please see our response to proposal 13. By adopting the Scottish approach it would ease public understanding, removes loopholes and makes for a transparent and clear regulatory framework.

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained.

AGREED

We believe that, not only should it be retained but that compellability in any new Act should specify certain classes of passenger (if in a suitable vehicle) that the driver must take. These would include Guide Dogs and owners and persons with other disabilities such as those in wheelchairs (as specified in SI)

We also believe that the old DDA1995 and the prospective Equality Act provisions should be re-enacted in the new Act and that if someone does discriminate against a hirer with a disability then the Act should provide for a statutory defence (driver having valid exemption certificate) and that the offence if proven should be endorseable on a DVLA licence. If it is not then poor drivers will attempt to avoid the responsibility to the annoyance of passenger, enforcement and the bona fides trades’ members wishing to do a good job.

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked.

AGREED

However the amount of data required at point of hire needs to be set down by SI. This allows Ministers to adapt provisions as technology improves. The differences between 1976 and 2012 were unforeseeable and this Act should be aimed at allowing for similar or greater changes in the future.

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.

AGREED BY THE MAJORITY OF MEMBERS

Many licensed vehicles are the only vehicle a family may own. Consequently unlicensed spouses/partners have been known to drive licensed vehicles. Many insurance policies now exclude such drivers and many licensees do not realise this.

Our suggestion is that the new Act provides that only licensed drivers may drive the vehicles but with a statutory defence that if the user can prove (to the criminal standard) the use was social, domestic or pleasure and not hire and reward then they will be found not guilty.

Perhaps a greater safeguard is to make the new offence one endorseable at DVLA so any true offenders receive a clear driving points disadvantage for the future.

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements.

AGREED

Ministers should have the power to issue binding Statutory Guidance by SI which authorities should then be bound to follow. This would mean that if a problem arose nationwide then all authorities would follow the same remedy. If you look at the Berwick situation had Ministers issued guidance stating Councils had to enquire as to where vehicles would work all Councils would have had to do so.

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned.

AGREED

By removing outdated references you will force a new mindset to come into play. Many elements of the trade look back to a golden age when hackney was king. If the term goes then people may start to re-evaluate for the modern age.

Question 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion?

AGREED IN PRINCIPLE

The dictionary definition of “taxi” is “ a vehicle provided for hire with the services of a driver. Both classes of vehicle fit within that definition. If a form of wording was set down in the Acts signage requirement and even specified what could be advertised the public would quickly adopt the change. The trades might perhaps be less so.

We believe the exact wording would be a matter of negotiation following the consultation exercise but if applied nationally by the parent Act or via SI it would soon clear any confusion and soon become the accepted norm.

A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements.

AGREED

National safety standards for both types of licensed vehicle should be set nationally by SI made by Ministers under the Act. This would produce clarity for vehicle manufacturers, licensees and enforcement officers alike. It would also remove many “aggrieved person’s conditions” appeals from the courts re MPV seating arrangements etc.

If as the consultation implies officers could be enforcing on any licensed vehicle the same national standards would allow for clarity of vehicle inspection requirements and the penalties for a failure to maintain these vehicle.

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards.

AGREED WITH QUERIES AS TO EXTENT

Councils may maintain they need to control fares, wheelchair capability etc for taxi vehicles as they are often immediately hired by someone external to the district and who may never meet that driver again. That is a fair summation.

To allow Councils to then impose additional requirements over and above the “mandatory safety limits set nationally” seems logical but what is the penalty for any failure to comply? Would this be set under the new Act or would it resemble a conditions breach, liable to licence suspension/ revocation only?

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards.

AGREED

So long as the mandatory safety standards for both taxis and private hire vehicles do not differ unnecessarily in standard this should not cause problems. The one area related to safety not currently covered is the fact that, many “settle owners” remain non-CRB-checkable but responsible for the condition of these vehicles.

I suggest the parent Act should allow for where a person runs a business settling out hire vehicles which are found defective then it should be an offence for that person to let such a vehicle out on hire to a driver. Where this offence to be endorseable then again it would encourage the owner to ensure they had a good safety system in place. Where an owner could demonstrate such a system and yet a driver is found with defective tyres then only the driver would then face prosecution. The absence of such a safety system would lead to the owner or both owner and driver facing sanction.

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers.

AGREED – see response to proposal 26

Anecdotal evidence states that satellite navigation systems do not always take customers by the shortest route. Given that private hire work rarely stays just within one locality the need for a topographical test for private hire is less clear than in the case of a taxi driver.

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage?
Are there other areas where local standards for private hire vehicles are valuable?

NO-WITH PROVISOS

We believe that the signage standard formats nationally should be set by SI, including name of authority, "private hire only" or "pre-booked" as determined by consultation (see response to question 23), Operator name and telephone number. This produces clarity for customers nationwide whilst allowing firms to effectively advertise their business.

We believe that "other business" advertising on such vehicles should also be considered as acceptable as it produces a source of revenue for the taxi or private hire licensee. Whether or not there needs to be limits on that subject is as yet unclear.

Question 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles?

SEE COMMENTS

Different standards for seating arrangements as opposed to methods of entering or leaving vehicles (ie fold down seats, clambering over occupied seats in case of accident.

In WAV's methods used to secure wheelchairs which may be "reference" or more usually "non-standard".

However if safety standards were clear then manufacturers would be able to produce models which match those requirements and should then be able to enter the market for the first time at a more economical cost.

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services?

NO- DISAGREE WITH THIS PROPOSAL

NALEO believes that no driver should be placed at greater risk than another for simply doing their job. If numbers of HCV's are derestricted then it will be for each driver to elect whether they wish to drive a partitioned or non partitioned vehicle.

We also believe the current driver seatbelt exemption should be reviewed and reconsidered even if the eventual decision is to leave at the status quo.

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety.

DISAGREE STRONGLY

We believe that the Act should provide for setting of any form of standard by SI, not just safety standards. It will then be for the Minister to justify why any change is needed. If the parent Act is limited then a future response might be unachievable due to a lack of foresight in drafting at this point in time.

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement.

AGREED

Any SI should be subject to a statutory consultation period before any change is brought in by SI

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? (*Page 193*)

AGREED THAT

A Technical Advisory Panel should be laid down by the Act with Ministers being able to invite suitably qualified trades Associations, Regulatory Bodies and Associations and User Groups to comment

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards

AGREED WITH PROVISOS

In the interests of certainty nationwide we would suggest that the powers given to Scottish Ministers seem appropriate and would recommend that consideration be given to mirroring that approach.

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards?

YES-AGREED WITH COMMENTS

Appropriate statutory limits would prevent excessive interference in the market. The Act should allow Ministers to set down by SI what matters may be further insisted upon by Councils.

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators?

AGREED WITH COMMENTS

Clarity and simplicity will better enable light touch regulation and will reduce costs on Council Enforcement and Licensing Sections.

However a residual power to impose disciplinary conditions on licensees having previously failed to comply with the Act is probably a good idea.

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements?

STATUTORY FOOTING

NALEO believes that, as is the case with Police Officers, an appointed Licensing Officer's powers should extend nationwide to any licensed vehicle or vehicle suspected of acting as an unlicensed vehicle, ditto drivers and operators.

We believe that areas should consider registering as the Home Authority for any operator that is based within their district and should assist any other LA Enforcement Officer with any related enquiries. We believe Ministers should have the power to issue binding statutory guidance as to what forms of communication and co-operation are needed to achieve this aim.

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting.

AGREED

NALEO believes that the existing S44 of Part 1 of the 1976 Act already permits joint working by Authorities. Some are known to already do this. Perhaps this power should be re-enacted in the new Act?

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area.

AGREED

NALEO agrees with this proposal providing there is a requirement to consult before such decisions are made.

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority?

STRONGLY DISAGREE

NALEO cannot agree with this proposal. These would in effect "cream off" the best working times. Currently Councils cannot limit hours worked so once licensed you choose your hours. This extra tier would skew the economic model to no good effect and would result in a lowering of standards.

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority.

MOST MEMBERS DISAGREE- BUT COMMENTS INCLUDE

If this proposal goes forward then Operators licensed by one area could mix and match so that a Liverpool CC licensed Operator could use the services of a Knowsley MBC licensed driver to drive a Sefton MBC licensed vehicle. It would be prohibitively expensive to “police” effectively.

A more workable suggestion would be for an Operator based in Area A to be able to employ driver + vehicle “teams” (both licensed by any “same” authority B) and for the Operator to have to periodically forward lists both to the home authority A (where based) and the authority B issuing the “team” licences. Home authorities could be obliged to respond to any enquiring authority by standard pro forma. All area enforcement powers would be a pre-requisite to this working effectively.

Also the example given in **paragraph 15.45 is incorrect** as many authorities prosecute other borough vehicles which ply for hire outside of their home district under current law.

Provisional proposal 42

We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs.

MOST MEMBERS AGREED

NALEO agrees with this proposal with the proviso that if any such non-returnee then does ply for hire the offence should be endorseable on the DVLA licence.

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares.
Licensing authorities should not have the power to regulate private hire fares.

AGREED WITH COMMENTS

NALEO agrees that the ability to set a maximum taxi tariff should be retained for journeys within the prescribed distance.

NALEO agrees that it is not necessary to set private hire fares but only if a greater degree of information as to fares is made available to hirers to a much greater extent than is presently the case in most areas.

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys?

DISAGREE

No. It is open to tariffs to include a “booking fee” but if taxis truly wish to compete with a market force driven service like private hire they should not then be on time and distance calculation but should be on distance only like the majority of private hire services nationwide.

REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING

Question 45

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions?

OPTION B AGREED

Powers to set down “fit and proper” should be laid down in the new Act but the details of what is “fit and proper” should be determined and laid down by statutory instrument by Ministers who will have the power to vary those regulations as new offences arise for inclusion or where public perception of crimes changes over the succeeding years

Question 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself.

NALEO STRONGLY DISAGREES

In many areas around the country a new breed of owner is appearing, the settle owner. These owners licence multiple vehicles and then rent them out to drivers, with benefit of insurance and servicing etc, for a weekly fee. It is not always the case that such owners are licensed PH Operators.

In numerous cases it has transpired that a proportion of these owners have used “settling cars” as a cover for laundering drugs profits etc and also anecdotally, if monies are owing threatened violence. Many have been subsequently found to have drugs or violence and dishonesty convictions etc.

The requirement for at least a standard CRB disclosure should apply and the Act should enshrine the principle that if certain offences (specified under an SI) are present then vehicle licences should be refused/ revoked.

Question 47

Should national vehicle safety standards be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions?

OPTION B AGREED

Powers to set down “national safety standards” should be laid down in the new Act but the details of what is needed as “national safety standards” should be determined and laid down by statutory instrument by Ministers who will have the power to vary those regulations as required over the succeeding years.

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles.

STRONGLY AGREED

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis?

STRONGLY AGREED

Operator licensing should cover anyone who, in the course of business, takes bookings for either taxis or private hire vehicles (or both) and the requirement to keep records should apply equally. The Scottish model of a booking office licence if 2 or more vehicles are operated seems appropriate.

Question 50

The definition of operators should not be extended in order to include intermediaries.

AGREED WITH PROVISOS

NALEO suggests the most efficient way to improve on the current situation is to make it an offence under the Act to make provision (operate) either taxis or private hire vehicles without a current licence. The Act could provide for a statutory defence section and allow Ministers, by regulation under an SI, to provide additional statutory defences, including if appropriate, "*intermediaries who only, as part of event planning, provide licensed vehicles and licensed drivers by booking them through a licensed operator*". The burden of proving compliance would fall upon the intermediary.

Question 51

Should "fit and proper" criteria in respect of operators be retained?

STRONGLY AGREED

As all contracts are deemed made with the operator we believe that fit and proper criteria should be retained and in fact expanded to ensure Operators and managers are liable to, at minimum, a standard level CRB disclosure.

In the case of limited companies, accounts should be filed at Companies House on time, with any failure to do so being set in the Act to be cause to suspend that operator licence.

Provisional proposal 52

Operators should be expressly permitted to sub-contract services.

MOST MEMBERS AGREE

The position in London has allowed this for some years now without apparent nationwide problems. If London is to come within any new Act it seems fair to extend to the rest of England and Wales as, unlike the Berwick situation, no real problems have arisen from subcontracting in London.

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply?

AGREED

The giving of a receipt should be mandatory including the vehicle and driver licence numbers and licensing authority offices address and contact numbers.

REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers.

NO CONSENSUS

There would be problems with either approach. (see response 55 below)

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers?

SEVERAL PROBLEMS COULD ARISE

Just by removing quantity control will not guarantee provision at times of need (neither will additional higher tariffs). This can be seen from London where plates are not limited.

As can be seen, for example in Dublin, deregulation can lead to too many cabs chasing too few fares and a possible danger from this could be a lessening of vehicle maintenance standards as drivers, due to economic pressure, could cut corners.

Finally it has been proven in many areas that numerical deregulation has led to congestion and over-ranking/ obstruction of the Highway and if it were to proceed then consideration should be given to a fixed penalty provision for Licensing Officers so they can economically and effectively manage the situation locally without incurring exponential enforcement costs.

For example in one Merseyside Authority at present there are 271 taxis and 2699 private hire and yet the "premium" value of a plate is only a maximum of £3000, no more than the goodwill value of a small shop.

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed?

AGREED WITH COMMENTS

A lead in period would seem appropriate and yet the short timescale indicated would probably not affect the take up in an area with a relatively "low" premium.

In many other areas, like Liverpool or York, where premiums are higher a different response could be more appropriate.

TAXI AND PRIVATE HIRE REFORM AND EQUALITY

Question 57

Should there be a separate licence category for wheelchair accessible vehicles?

This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles.

NALEO HAS CONCERNS RE PRACTICALITIES

We are unsure as to the need due to the fact that to effectively have a disability friendly cab that suits all disabilities is almost impossible (See Alma Lunt v Liverpool CC). There Liverpool wished to retain its' London cab only rule and was sued by Mrs Lunt and Allied Vehicles as she said her disability required the abilities of the E7 vehicle her disability was hampered by the design of the TX1, TX2 and TX4.

1. There should be a positive duty placed on licensees to carry from ranks (or when hailed) persons with disabilities. We believe any driver that fails to do so should be liable to an endorseable at DVLA penalty with a statutory defence laid down for if the driver has a medical exemption certificate or if he can prove it would have been unsafe to transport the passenger due to the weight or design of the wheelchair or scooter.
2. There should be a duty on LA's to provide raised kerb loading points at ranks and to ensure all meters, in addition to the numerical display, have a voice function which, if requested by the hirer, will read out the fare aloud as the journey progresses.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards?

DISAGREE

To effectively have a disability friendly cab that suits all disabilities is almost impossible (See Alma Lunt v Liverpool CC). There Liverpool wished to retain its' London cab only rule and was sued by Mrs Lunt and Allied Vehicles as she said her disability required the abilities of the E7 vehicle her disability was hampered by the design of the TX1, TX2 and TX4.

To reduce licence fees for disability friendly vehicles would be an insufficient incentive to encourage the level of initial investment required to purchase such vehicles.

If the parent Act made provision for a class of disability friendly "taxi" vehicles again Ministers could be given the power to have vehicle variations submitted by manufacturers/ converters and for those vehicles, if approved, under an SI, to be placed on a national register of approved types. Being placed on the approved list could give benefits such as:

1. Free or extremely low road fund licence;
2. An equivalent to "bus fuel duty rebate";

I do believe it is imperative that the point is made that disability friendly does not equal Wheelchair Accessible Vehicle. Many WAV's are not friendly to the ambulant disabled. *(Statistically NALEO believes only 6% of persons registered with a disability use wheelchairs whilst the remaining 94% do not).*

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers?

If any vehicle receives the benefits listed at response 58 then, once registered as such, it should be the duty of each Council to display on its' website details of how to hire disability friendly vehicles and should include columns showing which disabilities are catered for by which vehicles and also which licensed operators have such vehicles available.

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles.

NALEO AGREES

From figures detailed only some 6% of persons with a disability nationally are wheelchair users. By concentrating on WAV's some 94% of the total may be being inconvenienced or inadvertently discriminated against.

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training.

STRONGLY AGREE

Should a driver misread a stroke victim as being intoxicated for example the driver not only fails to earn his living he also discriminates against a sufferer with a recognised disability.

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority.

AGREE WITH COMMENTS

Many Councils already insist on this but then make the text so small that it becomes difficult to do. Our response to question 53 applies. If the giving of a receipt were made mandatory (like a bus ticket) and if it included the vehicle and driver licence numbers and licensing authority offices address and contact numbers the hirer would know exactly what to do.

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help?

AGREED WITH COMMENTS

This would require the Act to specify an offence should a driver fail to stop when mobile or fail to be hired on a rank. Again then give Ministers the powers to specify statutory defences by SI which can be amended as the situation develops. Again we would recommend making this an endorseable at DVLA offence/ fixed penalty notice.

REFORMING ENFORCEMENT

Question 64

Should authorised licensing officers have the power to stop licensed vehicles?

STRONGLY AGREE BUT WITH PROVISOS AS TO LICENSEE SAFETY

This is the tool that is most obviously missing from the current enforcement toolkit. However it would need to be laid down carefully, either in the Act or empowering SI matters such as where, when, how, mobile or roadblock style, uniformed officers, marked vehicles (like the Highways Enforcement Officers)etc.

Otherwise it would be too easy for criminals to impersonate Council officers and stop a, lone driver, carrying cash with the obvious risk of assault, injury and theft.

Officers would need appropriate training and accreditation to achieve maximum effectiveness but on the whole it would enable the mixed fleet of licences, as proposed, to be more effectively policed.

Question 65

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”.

NALEO SUGGESTS

If a particular LA identifies that there is a touting problem in its area it could be obliged under the Act, SI or statutory guidance to purchase in police time and undertake joint duties with Licensing Enforcement staff to deal with the matter. This works in London where TfL funds police officers. In areas like Merseyside with a single Integrated Transport Authority there could be a mechanism for planning such operations.

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules?

AGREED WITH COMMENTS

For many small or rural areas we doubt it would be cost effective. For major conurbations like Merseyside again the five authorities could have a joint policy and rota garage system in place to impound vehicles found unroadworthy or uninsured.

To that aim the new Act should direct that LA officers be given direct access via internet to the MID or to have a link to Local Police radio rooms to do an insurance or DVLA vehicle check. This would require the power to require a driver to remain whilst the check was carried out to be set down in regulations and also would require officer accreditation. If unroadworthy, any Licensing/Enforcement Officer undertaking such action, should hold a nationally recognised qualification in Vehicle Inspection for Taxis and Private Hire in order to take a vehicle off the road.

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how?

YES STRONGLY AGREED

Many current offences are level 1 or 2 offences and the courts do not readily take such prosecutions as serious matters. In addition in many cases the Licensing Enforcement Officer might be the only enforcer to check a vehicle between Compliance tests. Some Officers already have powers to issue FP's for obstruction, smoking in vehicles, litter and parking on a rank.

We believe that it is fairer for a driver found with a bald tyre to have the FP option which currently only a PC can offer. If my LA prosecutes for tyres the driver receives a heavier fine plus court costs and still gets the points on his DVLA licence.

We therefore suggest that:

1. The more minor offences should be non endorseable fixed penalties, (defective lights etc, obstructing highway);
2. Specified serious ones endorseable (including tyres, no insurance, Plying for hire, unlicensed driving);
3. Parking offences otherwise (ranks etc) remain civil Penalty Charge Notices.

And that all such FP options continue to have the ability to elect to go to court for trial as at present. (items at 3 to the Parking Adjudicator)

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas.

STRONGLY AGREE

In respect of illegal plying for hire this already happens when a Liverpool Hackney plies for hire in Sefton (and vice versa). Unlicensed vehicles/ drivers if detected can also be prosecuted. The principle that once appointed as a Licensing Officer you can act in respect of the legislation anywhere merely mirrors what a Police Constable can already do nationwide.

The matter of jurisdiction has caused arguments over who takes proceedings dependant of the location of the offence. Again the Home Authority principle may be of relevance. We would submit that if you are going to mix and match licences this power would be an essential prerequisite to any effective enforcement being done.

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this?

AGREED WITH COMMENTS

The existing S68 immediately- effective STOP powers available to officers for mechanical unfitnes/ meter inaccuracy should be retained on grounds of public safety. If nationally set standards apply there should be no problem with any officer suspending a defective vehicle.

If an unlicensed driver is found to be driving a licensed vehicle (outside of any statutory defences allowed) the officer should be able to suspend the vehicle licence with immediate effect.

In respect of any licence requiring revocation then the officer dealing should be required to notify the licence issuer's Home Authority by statutory notice and it should be for them to revoke the said licence.

REFORM OF HEARINGS AND APPEALS

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence.

AGREED

The right of appeal should be restricted to an applicant for a licence or an existing licensee. The existing right of any aggrieved person appealing should be removed to prevent vexatious litigants causing great expense to the Local Authorities for their own ends.

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision

MEMBERS DISAGREE

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court.

MEMBERS AGREE

Question 73

Should there be an onward right of appeal to the Crown Court?

MAJORITY AGREE

Once the national standards arrive, most of the causes of these appeals will quickly disappear to produce a more cohesive and effective system of enforcement and licensing nationwide. Therefore the Magistrates' Court should suffice for the provision of a right to a fair trial.

A minority number of members thought that the supervisory function of the Crown Court over Magistrates' should still be retained as using the stated case procedures was prohibitively expensive to the trade when challenging Council policies.

APPENDIX A

LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

CHAPTER 13 - OVERVIEW OF PROVISIONAL REFORM PROPOSALS

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. (Page 160)

Yes it should continue to distinguish between the two trades. It offers different service provisions. It is important if you come out of a shopping centre or train station that you are able to access transport quickly and of your choice.

CHAPTER 14 – REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. (Page 162)

Yes people should have the same or similar experience where ever they are.

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. (Page 164)

Taxis and private hire vehicles should still be 8 seats or less. PSV should be excluded from definition of taxi and PHV.

Question 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? (Page 164)

This is difficult because we are asked to licence motorbikes, Tuk Tuks, Pedicabs fire engines etc this needs to be considered. The Motorbikes and TukTuks are still hire and reward and often used for school proms.

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. (Page 165)

Yes PSV should be excluded from the definition of a taxi it provides a different type of service.

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. (Page 166)

Yes it should not feature as an exclusion. Stagecoach is an out of date word and not understood in today's society.

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. (Page 167)

Licensing authorities should licence 8 seater limos. The STC should be issued with guidance.

Provisional proposal 8

The concept of "in the course of a business of carrying passengers" should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. (Page 168)

Voluntary services and child minder services should be excluded. However we have had an incident where a man takes anyone in his street that asks into town to the airport etc for a small fee and calls it voluntary work.

Question 9

How, if at all, should the regulation of taxis and private hire deal with:

(a) carpooling; and this would be difficult to establish and should be excluded.

(b) members clubs? (Page 170) The act must define what a members club is if it is to be excluded.

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. (Page 171)

This suggestion would provide flexibility and would be supported.

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. (Page 172)

Funeral cars should be exempt it is clear what they are for and I am not aware of them being used for any other function, however you may find them popping up as novelty vehicles and then they would require licensing. Wedding cars are a different matters as they are used for a variety of functions and should therefore be licensed. Consideration should be given though to age as you could be faced with an early Rolls Royce etc.

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse? (Page 174)

This would be a backward step; it was abused before and no matter how you try to regulate a way round is always found. It is still a taxi at the end of the day.

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets". (Page 175}

This restriction should be removed public safety still applies whether it be private or public land.

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? (Page 177)

This is making regulation complicated why should airports be any different to Train Stations?

Provisional proposal 15

The defining feature of taxis, the concept of "plying for hire", should be placed on a statutory footing and include:

- (a) references to ranking and hailing;
 - (b) a non-exhaustive list of factors indicating plying for hire; and
 - (c) appropriate accommodation of the legitimate activities of private hire vehicles.
- (Page 181)

It should be placed on a statutory footing and include all of the above so that it is quite clear what is allowed. This is the difference between taxis and PHV; this is one of the causes for concern between the trades.

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. (Page 181)

No it should not cover technological means of engagement it would not be fair competition or practical.

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”? (Page 182)

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained. (Page 182)

Definitely we already get complaints; it is not for the taxi driver to pick and choose and could discriminate and cause concern to a customer.

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. (Page 183)

Pre booking should be continued for Private Hire however technology does need to be included. The legislation should be broad enough to include changes to technology.

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved. (Page 184)

There is a concern this is going to make matters worse. How would it be proved? Most drivers are self employed and would say they weren't working. If it is a taxi or PH it should remain taxi or PH. It is a professional vehicle used for a professional service and should remain so.

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements. (Page 185)

Yes this would make matters clearer and consistent which is what we are looking for.

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned. (Page 185)

Most definitely, the words ‘Hackney Carriage’ are not words for today’s society; horses are no longer used and have been over taken by the word Taxi. Private Hire should remain as it is a widely used common term.

Question 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion? (Page 186)

Yes it makes no difference as long as pre booked is used for private hire.

CHAPTER 15 – A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements. (Page 188)

Yes it would give a base line for authorities to build on, however both trades should be treated the same. There is no reason for having one on minimum and one on mandatory standards.

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards. (Page 189)

Both trades should be treated the same and should require either minimum/mandatory standards and allow authorities to upgrade. Consideration needs to be given to novelty/classic vehicles that will never reach certain standards.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. (Page 189)

Both trades should be treated the same and should require either minimum/mandatory standards and allow authorities to upgrade. Consideration needs to be given to novelty/classic vehicles that will never reach certain standards.

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers. (Page 190)

Conditions still need to be in place it is a professional service and this would not be raising standards but we would see a decline in both standards and service.

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? (Page 190)

Yes we should retain a local standard for signage. Also location of licence plates, alterations to vehicles including tinted windows, change of address, absence, receipts, accidents, proprietor responsibilities.

Question 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? (Page 191)

Obstacles could be cost, type/design of vehicle

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (Page 192)

There should be a level playing field as regards safety standards across the two sectors.

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should only cover conditions relating to safety. (Page 192)

It is agreed this should be the case.

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. (Page 193)

This would be welcomed ensuring the outcome is fit for purpose.

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? (Page 193)

A focused technical panel would be the preferred route, underlining the point made above.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. (Page 193)

This is favoured, however some additional guidance on such matters would be preferred as there is a difference between what is necessary for consumer and driver safety etc and 'nice to have' issues.

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? (Page 194)

Guidance and a local mechanism for challenge would probably be the preferred route. Any Statute would need to be suitably worded to stand the passage of time.

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? (Page 194)

The suggestion of individual conditions, bespoke to the business seems at odds with what the review is all about. There should be a level playing field of consistency.

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? (Page 195)

Statutory footing.

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. (Page 196)

If it is the case political agreement can be established, this could be of benefit, especially the configuration of some areas.

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. (Page 196)

Yes, this should be the case.

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? (Page 197)

This might prove attractive to drivers, but there are inherent difficulties in policing such a scheme.

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. (Page 198)

This would appear logical however there are some concern as regards accountability and traceability of activities. The conditions and sanctions for non-compliance would need to be looked at very carefully. An activity for the focus group?

Provisional proposal 42

We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs. (Page 199)

This appears logical.

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares. (Page 200)

This appears logical.

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (Page 200)

In theory yes, as the customer should be able to shop around as regards price. There are some concerns as regards vulnerable groups who may be dependent on such a facility, who are not ‘able’ to shop around for a variety of reasons.

CHAPTER 16 – REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING

Question 45

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 203)

A hook within the primary legislation is attractive, perhaps this could be expanded upon via the S of S activity?

Provisional proposal 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. (Page 204)

This seems logical, with the test relating to vehicle and driver. However we need to think through the full ramifications of this and the various unsavoury circumstances that might present themselves. Again an activity for the focus group?

Question 47

Should national vehicle safety standards be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 205)

Again, a hook within the primary legislation is favoured, with a more flexible, informed approach adopted by the S of S.

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. (Page 207)

Yes.

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? (Page 208)

Yes.

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. (Page 209)

Agree.

Question 51

Should “fit and proper” criteria in respect of operators be retained? (Page 210)

Yes.

Provisional proposal 52

Operators should be expressly permitted to sub-contract services. (Page 210)

This appears logical, but the trail of activity and ramifications needs to be thought through.

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? (Page 210)

Yes.

CHAPTER 17 – REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers. (Page 213)

Agree, more stringent standards should see a 'shake out' within the trade eventually.

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? (Page 213)

N/A we have no limit.

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed? (Page 215)

This may benefit some LA's and seems logical.

CHAPTER 18 – TAXI AND PRIVATE HIRE REFORM AND EQUALITY

Question 57

Should there be a separate licence category for wheelchair accessible vehicles? This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. (Page 217)

There is some merit in this, but when you are considering rank space, certainly for District and Borough LA's the decision to locate, expand a rank lies with the County Council. We have great difficulty in finding additional provision in this regard and our relationship with the County is very positive.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? (Page 217)

Accessibility and the emissions from vehicles should be looked at in the same way, encouraging positive investment etc.

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? (Page 217)

None.

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. (Page 218)

Agree, this would be incredibly difficult, as one wheelchair need can be vastly different to another.

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. (Page 219)

Agree.

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. (Page 219)

A standard phrase in this regard seems logical.

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? (Page 220)

Yes.

CHAPTER 19 – REFORMING ENFORCEMENT

Question 64

Should authorised licensing officers have the power to stop licensed vehicles? (Page 222)

Operationally I would always favour joint working with the Police. We do inspections of vehicles by appointment (day time), which proves effective.

Question 65

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”. (Page 223)

Greater explanation and clarity as to what this means in reality, to aid enforcement.

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? (Page 223)

As an absolute possibly, but it would need to be thought through as regards the qualifying criteria and recouping of associated costs, plus path of recourse. A graduated approach is favoured.

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how? (Page 225)

This would prove useful and expedient, an example could relate to the road worthiness of vehicles, we often link up with VOSA to do compliance checks; there are opportunities here for links to FPN's. The offences need to be clear and tangible given the avenue of recourse should non-payment of the FPN occur.

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. (Page 225)

A joint approach with another LA is always favoured; they invariably have valuable intelligence which informs the process. The FPN route certainly has some merit here for clear offences.

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? (Page 226)

See above.

CHAPTER 20 – REFORM OF HEARINGS AND APPEALS

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. (Page 230)

Agree.

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. (Page 231)

Agree, a more expedient route, however the criteria for those presiding over the matter would need to be made clear, to ensure due process and fairness.

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court. (Page 232)

Once the LA has had the opportunity to revisit its decision as above...Yes.

Question 73

Should there be an onward right of appeal to the Crown Court? (Page 233)

This seems logical.

From: Steven Toy [REDACTED]
Sent: 10 September 2012 16:05
To: TPH
Subject: Taxi proposals
Dear Sirs

I write in response to the proposal that Licensing Enforcement Officers be given the power to seize licensed vehicles for breaches of licensing conditions.

It is my view that this would be open to abuse by over-zealous Officers who may not have had necessary training or guidance to determine when it would be appropriate or even legal to seize a licensed vehicle. It would also be unnecessary if officers had the power to revoke or suspend vehicle licenses.

By affording LEOs such powers, all licensed vehicles would effectively become the property of the local authority under which they were licensed. This would be wholly unacceptable.

However, I agree that the police should have the power to seize unlicensed vehicles used repeatedly for hire and reward purposes.

Yours faithfully,

Steven Toy, [REDACTED]

HC driver no.6 and HC vehicle no. 112 in Cannock Chase District.

District representative to the National Private Hire Association on behalf of Cannock Chase drivers and proprietors.

Sent from my HTC

This email was received from the INTERNET and scanned by the Government Secure Intranet anti-virus service supplied by Cable&Wireless Worldwide in partnership with MessageLabs. (CCTM Certificate Number 2009/09/0052.) In case of problems, please call your organisation's IT Helpdesk. Communications via the GSi may be automatically logged, monitored and/or recorded for legal purposes.

The person dealing with this matter is:

Jonathan Bryce
Regulatory Licensing
Regulatory Services & Public Protection
Newcastle City Council
Room 704
Civic Centre, Barras Bridge
Newcastle upon Tyne, NE1 8PB

F.A.O Public Law Team (Taxi & Private Hire)
Law Commission
Steel House
11 Tothill Street
LONDON
SW1H 9LJ

Phone: 


www.newcastle.gov.uk

10 September 2012

Our reference: RSPP/LIC/JB/LawCommission/Consultation
Your reference:

If you need this information in another format or language please contact the sender.

Dear Sir/Madam

**Taxi & Private Hire Law Reform
Newcastle City Council – Consultation Response**

Please find attached our response to your consultation document regarding Taxi and Private Hire Law Reform.

Should you have any further query please do not hesitate to contact the above.

Yours faithfully



**Jonathan Bryce
Regulatory Licensing Manager**

TAXI & PRIVATE HIRE LAW REFORM

COMMISSION'S PROVISIONAL PROPOSALS AND QUESTIONS WITH RESPONSES (*IN ITALICS*)

The Council welcomes the proposed reform of Hackney Carriage and Private Hire Licensing.

The Council has responded to the provisional proposals below but has further general representations to make in respect of matters raised by the consultation but omitted from direct questions. I am sure following consideration of all submissions the reform will once again go out to consultation.

Whilst there is proposed legislative reform, the Council wonders what if any the role of byelaws in respect of Hackney Carriages would have. Would existing byelaws be repealed? Would there still be a provision to make byelaws?

The Council is concerned that the Commission refers to a possible compensation scheme in respect of taxi vehicle plates in respect of proposals to remove quantity restrictions. The Council would wish to receive further information on the mechanics of implementation.

In respect of cross border issues in respect of taxis carrying out private hire work, the Council would welcome a clear resolution to this. The Transport Select Committee recommended that taxis working as private hire vehicles must work principally in the district in which they are licensed, however, the Council feels that this still leaves ambiguity in respect of the term principally.

The Council has concerns in respect of a definition of fit and proper, and what could be taken into account in respect of determining this. The Council believes that whilst convictions and cautions are a good starting point in respect of determining whether an applicant is fit and proper, the Council also believes that any credible information that is brought to the Council's attention which would be relevant to the issue of fitness should continue to be taken into account. The Council believes that enhanced CRB checks are maintained and that spent convictions remain to be taken into account where relevant.

The Council is also concerned by the proposal that local licensing policies would only remain in respect of taxi licensing and not private hire.

The Council was also concerned by reference at a recent Law Commission event to a central fund in respect of fees and that fees may be distributed in some way according to priority need in respect of enforcement. The Council opposes such a proposal and believes that fees should be maintained locally for local enforcement.

CHAPTER 13 - OVERVIEW OF PROVISIONAL REFORM PROPOSALS

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. (Page 160)

This authority agrees with this proposal. However it should be expanded to state that private hire vehicles should continue to be pre-booked by someone other than the driver. Plying for hire should be legally defined. Appreciated that the current system requires overhaul.

CHAPTER 14 – REFORM OF DEFINITIONS AND SCOPE Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. (Page 162)

This authority agrees with this proposal to include London.

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. (Page 164)

This authority agrees with this catch-all provision to ensure that all types of transport carrying passengers for hire on the public road should be subject to suitable regulatory conditions and enforcement. Public safety is key.

Provisional proposal 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? (Page 164)

The Authority does not consider that this restricting licensing to only vehicles which require a driving licence would adequately protect the public as it may lead to the public being conveyed in unregulated transport on the public road.

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. (Page 165)

This authority agrees with this proposal. However care should be taken with vehicle adaptations. There are vehicles designed to carry more than 8 passengers with seats removed – there is a current inconsistency in licensing of these vehicles and an absence of re-testing certification. Clarity is required for testing arrangements both at local authority and Vehicle Operating Standards Agency level.

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. (Page 166)

This authority agrees with this proposal. Clarity is required.

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. (Page 167)

This authority agrees with this proposal.

Provisional proposal 8

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. (Page 168)

This authority agrees with this proposal in principle though is cautious to the creation of legal “loopholes.” Consideration should be given to allowances given to volunteer sectors who may benefit more and as such compete with licensed trade.

Question 9

How, if at all, should the regulation of taxis and private hire deal with: (a) carpooling; and (b) members clubs? (Page 170)

Definition of both car pooling and members clubs is required, however if car pooling refers to people sharing a car for commuting purpose or similar with no monetary benefit there should be no regulation.

The City Council is not currently aware of existing members clubs however the Council has concerns that if exempted from legislation a lacuna could be created.

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. (Page 171)

This question is vague and clarification is required.

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. (Page 172)

This authority has not experienced any historical difficulty with the exemption of Funeral services. Funeral cars are ancillary to a service. However wedding cars are usually booked directly through a company or driver. The City Council therefore thinks wedding cars require inclusion in the licensing regime

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers’ exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse? (Page 174)

The authority disagrees with the reintroduction of a contract exemption, however other exemptions (identified to proposal 8) may need to be pursued.

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to “streets”. (Page 175)

This authority agrees with this proposal. Any hiring should be covered. The Authority is of the view that vehicles at airports country estates, entertainment venues (racetracks) should be covered.

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? (Page 177)

The authority disagrees. Shuttle buses carrying more than 8 passengers should however be referred to the traffic commissioners.

Provisional proposal 15

The defining feature of taxis, the concept of “plying for hire”, should be placed on a statutory footing and include:

(a) references to ranking and hailing;

(b) a non-exhaustive list of factors indicating plying for hire; and

(c) appropriate accommodation of the legitimate activities of private hire vehicles. (Page 181)

This authority agrees with the principle that the definition of “plying for hire” would benefit from being defined in statute. However, this will require very careful wording to ensure clarity.

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. (Page 181)

This authority agrees with this proposal that taxis must take the next fare. Use of technological means would be deemed pre-booking and not hailing or ranking.

Provisional proposal 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”? (Page 182)

Yes there may be merit in exploring the Scottish approach as it appears to remove the intentions of the driver from the equation. As long as public place includes private land.

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained. (Page 182)

This authority agrees with this proposal. This is a fundamental difference if retaining a two-tier system.

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. (Page 183)

This authority agrees with this proposal

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved. (Page 184)

This authority strongly disagrees with this proposal. Given the over-riding responsibility of the Authority to protect the public it is imperative to ensure effective enforcement. If permitted this may be subject to abuse by drivers alleging private use.

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements. (Page 185)

This authority agrees with this proposal.

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned. (Page 185)

This authority agrees with this proposal though questions the need for the removal of the term hackney carriage?

Provisional proposal 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre- booked” and did not otherwise lead to customer confusion? (Page 186)

The Authority strongly disagrees with this proposal because it would inevitably blur the distinction between the two types of vehicle even with the qualifying word “pre-booked”. It would not therefore achieve clarity in the minds of consumers but have just the reverse effect. The two terms “taxi” and “private hire vehicle” should be retained as above.

CHAPTER 15 – A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements. (Page 188)

This authority agrees with this proposal. However great care should be taken as to the correct level of standard to be set with regard to wheelchair accessible vehicles. Should the correct standard not be implemented it may be in breach of the Equalities Act.

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards. (Page 189)

This authority agrees with this proposal because it continues to give local authorities the discretion to regulate taxis in accordance with local needs and priorities.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. (Page 189)

This authority does not agree with this proposal – the applicability of national standards should be the same as that proposed for taxis, namely minimum safety standards with the ability for local authorities to set additional standards to reflect local needs and priorities. Would safety standards potentially exclude novelty vehicles in the process?

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers. (Page 190)

This authority does not agree with this proposal – it is surely the case that members of the public have the reasonable right to expect that drivers which have been licensed by the local regulatory authority have passed at least some, even rudimentary, scrutiny to check their knowledge of the local area. If the proposal were agreed would it be a mandatory vehicle condition to be fitted with a satellite navigation device? This expectation must surely apply to both taxi and private hire drivers.

Provisional proposal 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? (Page 190)

This authority has indicated in its response above to proposal no.26 that it considers that local authorities should retain a discretion to set local standards over and above national minimum standards (to address such issues as signage and topographical tests).

Provisional proposal 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? (Page 191)

This authority agrees that, so far as is practicable, the national standards for private hire vehicles and taxis should be the same, however a rigid approach to standards could exclude vehicles which should be licensed e.g. novelty vehicles, limousines etc.

Provisional Proposal 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (Page 192)

No, driver safety should be the same for taxi and private hire services. As previously stated, this authority considers that local authorities should have the ability to decide whether additional local conditions should apply to private hire as well as taxi vehicles.

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should only cover conditions relating to safety. (Page 192)

This authority agrees with this proposal but, as stated previously, considers additional local standards governing comfort and efficiency of service (for example, the topographical test), should be able to be imposed locally for both the private hire and taxi trade.

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. (Page 193)

This authority agrees with this proposal. This should also include technical organisations i.e. vehicle manufacturers, Vehicle Certification Agency, STATUS, Wheelchair Accessible Converters Association etc. The field of vehicle conversions is extremely complex and requires expert advice.

Provisional proposal 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? (Page 193)

A consultative approach is required. Both national authorities (Vehicle Operating Standards Agency) and technical expert sources such as STATUS have a wealth of hire industry specific knowledge and would be best suited to evaluate standards. A panel of this constitution could only assist in this process.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. (Page 193)

This authority agrees with this proposal.

Provisional Proposal 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? (Page 194)

Yes.

Provisional Proposal 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? (Page 194)

Yes. As stated above, this authority considers that local authorities should retain the power to impose conditions locally for both the private hire, as well as the taxi trade and introduce conditions for hackney carriage/taxi drivers.

Provisional Proposal 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? (Page 195)

Yes, although co-operation should not be mandatory the statutory powers to allow co-operation should be available at the Authorities' discretion.

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. (Page 196)

Provided this is only an option for local authorities to choose to do so where they see fit, this authority agrees with this proposal. However, as stated previously, this authority considers the power to set local conditions in respect of the private hire trade should be retained and, if this were the case, it is logical for the option in proposal no. 38 to be made applicable to private hire standard setting also.

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. (Page 196)

This authority agrees with this proposal.

Provisional proposal 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? (Page 197)

Yes, although possibly not wholly applicable to this Authority area, we agree with the principle. Enforcement of a further “licence type” may however prove challenging.

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. (Page 198)

The authority sees benefit of adopting a London style approach and cannot see the harm of bookings being passed to an Operator outside Authority areas should there be appropriate booking records in place. However the “3 tier” private hire system should be retained for the dispatch of vehicles and drivers.

Provisional proposal 42

We do not propose to introduce a “return to area” requirement in respect of out-of- area drop offs. (Page 199)

This authority strongly disagrees with this proposal not to introduce a “return to area” requirement. This authority is firmly of the view that the presence in its area of private hire vehicles licensed by neighbouring authorities “sitting”, often in large numbers in high profile areas at times of peak demand, undoubtedly contributes to the commission of illegal plying for hire by such drivers which is a serious matter particularly when one considers that passengers would not be insured in such cases.

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares. (Page 200)

This authority agrees with this proposal. This is essential to protect both driver and passenger in respect of dispute over fares.

Provisional Proposal 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (Page 200)

No, this authority considers that the present position should be maintained.

CHAPTER 16 – REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING

Provisional proposal 45

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

(a) set out in primary legislation; or (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 203)

This authority considers that national driver safety standards should be a mandatory requirement for all drivers. However, over and above those basic standards, the question of whether an applicant is a “Fit and proper” person is of such a central importance that it should continue to be enshrined in statute. It would seem appropriate for the proposed statutory guidance to give some assistance to local authorities in making this decision.

Provisional proposal 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. (Page 204)

The authority disagrees with this proposal. A proprietor who consistently has poor vehicles on the road has little sanctions against him. A driver may be prosecuted and lose his licence only for a proprietor to get another driver and use the same vehicle. Also a proprietor with certain offences i.e. supply of drugs should not be permitted to hold a proprietor's licence.

Provisional proposal 46

Should national vehicle safety standards be either:

(a) set out in primary legislation; or (b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions? (Page 205)

This authority considers that it would be appropriate for national vehicle safety standards to be set out in both primary legislation and regulations by the Secretary of State.

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. (Page 207)

This authority agrees with this proposal.

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? (Page 208)

Yes this would allow currently exempted bookings taken via hackney carriages to be incorporated and improve traceability and public safety.

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. (Page 209)

This authority agrees with this proposal.

Question 51

Should “fit and proper” criteria in respect of operators be retained? (Page 210)

Yes fit and proper should be retained as criteria for private hire operators. This standard reflects the key role and interrelationship between the hirer and the private hire company. The duties associated with a private hire operator are implicitly linked with a duty to be responsible for passengers their safety and security.

Provisional proposal 52

Operators should be expressly permitted to sub-contract services. (Page 210)

The authority agrees with this proposal however it should be noted that there is a risk that this proposal will compromise the safety and security of the travelling public. Proper records of sub-contracted journeys will need to be kept in every case.

If the Law Commission chooses to pursue this proposal it is essential in the authority's view that the original operator is placed under an express legal duty to (1) obtain the hirer's consent to the sub-contract and (2) continue to be accountable for the booking and have robust measures in place to ensure clarity of record keeping so that the authority is easily able to scrutinise a sub-contracted booking at the original operator's office.

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? (Page 210)

Yes to include all fares, not just pre-booking but to include ply for hire fares. This would take the driver a short amount of time to record. Would undoubtedly assist in respect of driver and public safety. The Council believes that a receipt system would also be a good idea in order that drivers could record bookings through this method and members of the public would also have a record of their transaction. As taxis largely operate on a cash basis this would ensure that all transactions are accounted for.

CHAPTER 17 – REFORMING QUANTITY CONTROLS**Provisional proposal 54**

Licensing authorities should no longer have the power to restrict taxi numbers (Page 213)

This authority strongly disagrees with this proposal. It seems to have been suggested without any evidential basis that it would, as a matter of fact, benefit the consumer.

This authority has at all times complied with the Government's requirements concerning the need for unmet demand surveys. These are carried out by consultants who are experts in their field and are detailed, analytical reports which clearly set out to identify unmet demand by the best means possible.

Newcastle's 780 taxis provide a day and night provision for users and the delivery of taxi services are sustainable. Newcastle has a large number of taxis working at night due to double shifting of drivers who work nights as there is a limit on taxi numbers.

This authority does not consider there is a need currently for the removal of the limit on taxi licences. Any such decision as proposed would be arbitrary and would impose a detrimental effect on Newcastle as it is highly likely that the demand for taxi licences would increase placing unachievable demands on the need for additional rank space and result in taxis either ranking up illegally causing road safety issues or circulating around waiting for rank space to become available which would be detrimental to the environment. Finally, as the Law Commission report itself says, "having more taxis does not guarantee more taxis when and where they are needed".

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? (Page 213)

Please see comments above (Provisional Proposal 54). Vehicles and standards of service offered by drivers could also fall as numbers rise.

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed? (Page 215)

This authority does not agree with the proposal to impose the removal of quantity restrictions and it is difficult to see what transitional measures could be put in place which would be fair to both would-be applicants and the existing licence holders and yet effective and workable in managing such a major change to taxi provision in this City.

CHAPTER 18 – TAXI AND PRIVATE HIRE REFORM AND EQUALITY

Question 57

Should there be a separate licence category for wheelchair accessible vehicles? This could involve:

(1) a duty on the licensee to give priority to disabled passengers; and (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. (Page 217)

No. The authority is unable to answer this question without clarification. Does the question refer to Hackney Carriage or Private Hire? This authority requires a significant proportion of its hackney carriage fleet to be wheelchair accessible. All those vehicles with disabled access currently have to take passengers in wheelchairs and the vehicle has to be able to accommodate the passenger and their co passenger.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? (Page 217)

No. The same processes and enforcement (if not higher) are involved in wheelchair accessible vehicles as in non-wheelchair accessible vehicles. If this was to occur you would effectively be asking the rest of the trade to subsidise other proprietors and drivers which is surely unfair.

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? (Page 217)

This authority is committed to improving the provision of taxi and private hire services for persons with disabilities but considers it is essential that all the issues are best addressed on a national level.

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles (Page 218)

This authority agrees with this proposal. The City Council have by condition maintained 60% of it's Hackney Carriage fleet as wheelchair accessible.

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. (Page 219)

This authority has such training in place currently for Hackney Carriage Drivers and agrees with furthering this proposal to include Private Hire. The Council believes that the training should be of a higher standard than that of NVQ level. Training undertaken to date should also be taken into account.

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. (Page 219)

This authority agrees with this proposal and believe it should be for any regulatory matter.

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? (Page 220)

Yes. This authority would agree in principle with a new “duty to stop” but in practice considers it would be very difficult to enforce, particularly if there was a requirement for any offence to be committed “knowingly”.

CHAPTER 19 – REFORMING ENFORCEMENT**Question 64**

Should authorised licensing officers have the power to stop licensed vehicles? (Page 222)

Yes this Authority considers that this would be a desirable power but needs to be considered with caution and due regard to Road Safety legislation.

Question 65

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”. (Page 223)

The legislation is already there. It could be included in primary legislation / any new legislation but we can still prosecute under existing legislation. However changing ply for hire legislation to include “any place” would be more helpful.

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? (Page 223)

Yes, though with appropriate direction and restriction the authority believe it may act as an additional deterrent. It does currently work with the Police to seize uninsured vehicles illegally plying for hire.

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how? (Page 225)

Yes the authority should use fixed penalty schemes. This would empower officers, save time and deal more equitably with contraventions. Most straightforward relatively minor taxi and private hire offences could be appropriately addressed by FPNs. These would need to be defined however. For example the council feels this would be appropriate for example for failing to wear an identification badge but further consideration needs to be given to administering for more substantial offences i.e. illegal ply for hire.

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. (Page 225)

This authority agrees with this proposal in principle but questions how levels of enforcement would be funded.

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? (Page 226)

As far as this Authority is concerned, it would favour the first option identified (Informal cooperation between licensing authorities. Communication methods would need to be robust between Authorities to enable this to work successfully.

CHAPTER 20 – REFORM OF HEARINGS AND APPEALS**Provisional proposal 70**

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. (Page 230)

The Council disagrees with this proposal in respect of only the applicant or licence holder as the Council feels it imperative that the Council also retains its right of appeal in respect of licensing decisions. However the Council agrees with the proposal in respect of any other third parties.

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. (Page 231)

This Authority disagrees with this proposal. It would create an unnecessary increase in bureaucracy and protract matters. The current system is understood by the trade and works well.

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court. (Page 232)

This Authority agrees with this proposal

Question 73

Should there be an onward right of appeal to the Crown Court? (Page 233)

The City Council has had a number of cases at Crown Court overturning irrational decision of the Magistrates Court. This has occurred in serious cases such as revocations based on intelligence (for example sexual cases) rather than convictions.

Reforming the law of taxi and private hire services **– a response from Leonard Cheshire Disability**

Leonard Cheshire Disability (LCD) is the UK's leading pan-disability charity. Founded in 1948 in reaction to the lack of care and support available for disabled people, today we provide a wide range of services, including social care and employment support as well as working to improve the rights of disabled people around the world. Campaigning is at the heart of what we do and our policy and campaigns team works with disabled people across the UK to lobby for positive change.

We welcome the opportunity to respond to this consultation. In particular we are pleased at proposals to improve safety for disabled passengers and introduce compulsory disability discrimination training for taxi and private hire drivers.

How we consulted

To help inform our response we asked disabled people how they thought taxi services could be improved. Their views provide the basis for our answers below.

Disabled people's experiences of taxis and private hire vehicles

Respondents highlighted that disabled people often rely on taxi travel because they are frequently not able to access alternative methods of transport, such as trains and buses.

However, people told us that on numerous occasions taxi drivers have refused to stop for them, have driven away from the rank when approached by a disabled person or have charged extra for transporting a wheelchair or assistance dog. This is unacceptable yet disabled people often do not challenge the situation for fear of being refused a service.

57) Should there be a separate licence category for wheelchair accessible vehicles? This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and**

(2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles.

In the UK taxi and mini-cab drivers often refuse to stop for disabled passengers. Coupling reductions in the licence fee with requirements to give priority to disabled passengers would be a positive step in helping address this. We would also welcome improved provision at taxi ranks for wheelchair accessible vehicles as a taxi can only be accessible if there is somewhere where someone can safely board or leave the vehicle, for example, without a kerb the gradient of a ramp can become so steep as to be unsafe.

58) Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards?

We welcome any action that encourages more accessible taxis and mini-cabs and there was strong support for the Irish model in the responses we received.

Responses indicate that the availability of accessible taxis and mini cabs varies in accordance with geographical area and some locations appear to have significantly more accessible vehicles than others.

Licensing authorities should be under a duty to make sure there are enough wheelchair accessible taxis and mini cabs to meet the needs of local people.

59) Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers?

One respondent suggested that companies or individuals willing to adapt their vehicles to improve accessibility should be given a financial incentive to encourage this process. This could potentially be in the form of a grant, tax break or reduced license fee. It was also proposed that an award should be available for companies that have gone out of their way to provide accessible vehicles and fully trained drivers.

60) We do not propose to introduce national quotas of wheelchair accessible vehicles.

We acknowledge that the need for all taxis to be accessible could prove counterproductive, potentially reducing supply. However, we support the introduction of minimum standards to ensure that a certain number of vehicles within each fleet are accessible. As with reasonable adjustments more broadly, this requirement could be flexible to reflect the size of the provider.

61) National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training.

Disability awareness training is an area that most of our respondents feel very strongly about as the majority have experienced problems with their journeys stemming from poor awareness. One respondent stated that:

'I think all taxi/ mini- cab drivers should go on a disability awareness course as some don't even know how to push a wheelchair properly. They don't know how to fasten your wheelchair safely and therefore when you go round bends the wheelchair goes up in the air and it is not very safe.'

Training should cover both attitudes and safety. Disabled people often face discrimination when using taxis and mini-cabs arising from a lack of understanding of disability. Improved understanding of safety would help passengers feel more confident about travelling.

62) In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority.

The majority of respondents did not know how to make complaints about taxis. It would be useful for there to be clear information about who to complain to and how. It was suggested that there could be a requirement that this be displayed in taxis or on associated materials, for example business cards. It was also felt that this would provide an opportunity to commend good service.

Several people suggested that information should be as accessible as possible and broken down into a step-by-step guide. Material should also be made available in a full range of accessible formats.

It is also important that the complaints process is free, using a freepost or free call number. Many disabled people are on a low income and a premium rate number could prove a barrier to complaining about poor service.

Other comments

Another issue reported was the types of vehicles classed as accessible. A number of respondents said that the standard accessible taxis available in their area were not large enough for their electric wheelchairs. For example, they found that the vehicles roofs were not high enough to allow them to get their head and head rest easily into the taxi without bending their necks into a painful position. This often resulted in people having to use their manual chair, reducing their independence and meant that a PA was needed to travel with them on journeys they could have done independently if they had been using their electric chair. We would urge the government to look at the different types of accessible taxis available to ensure they are meeting the requirements for all disabled people.

Most respondents would like to know more information about costs and whether or not they will be charged extra for being accompanied by an assistance dog.

Respondents also said that better information about the taxi firms in their area would help them choose a reliable provider. People told us that it would be useful for information on accessible taxis to be available at the following locations as well as online:

- Doctors surgeries and hospitals
- Social clubs
- Jobcentres
- Yellow pages
- Library
- Taxi ranks/Bus stations

- Post office
 - Through local disabled people's organisations
-

For any further information please contact Amy Parker, Campaigns
Supporter Engagement Officer at [REDACTED] or
on [REDACTED]

Public Law Team (Taxi and Private Hire)
Law Commission
Steel House
11 Tothill Street
London
SW1H 9LJ

Our Ref:

Your Ref: Taxi and Private Hire

Date: 18 December 2012

Email: tp@lawcommission.gsi.gov.uk

Dear Sir / Madam,

Response to the consultation in relation to the provisional proposals to reform the law of taxi and private hire services

As a person who has been both a Senior Licensing Manager with a large metropolitan local authority and latterly a licensing consultant working with a number of large and high profile private hire operators I believe I am in a relatively unique position whereby I can address issues from the prospective of both the local authority and private sector.

Rather than attempt to comment in detail on each and every provisional proposal and question posed in the consultation paper, I limit my submission to matters referred to as, or associated with, the key proposals in the summary document.

Whilst I appreciate there are others who consider there is no need for legislative reform, I cannot agree with them – the law is antiquated and incapable of dealing with the issues that arise from the use of modern technology; the different standards applied by different councils confuses the public; and the lack of national standards not only creates the possibility that some councils may have set inappropriate standards, but prevents effective enforcement outside the area of the council that licensed a vehicle and its driver.

I agree with the Law Commission that two tiers should be retained and London should be regulated by the same flexible framework that is proposed for the rest of England and Wales. Issuing statutory guidance to licensing authorities would reduce inconsistencies between them and promote consistency with VOSA in relation to licensing limousines.

The creation of a wheelchair accessible category of vehicle would blur the distinction between the two tiers. Whereas a limousine will only ever be pre-booked and a

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pedicab will only ever be hired in the street, wheelchair accessible vehicles must remain in both tiers to ensure that the needs of wheelchair users are met.

When setting national standards, the Law Commission must focus on only those matters that truly need to be set nationally, namely those relating to vehicle roadworthiness (and possibly exhaust emissions) and driver standards, including disability awareness.

Issues relating solely to taxis, such as driver and passenger safety, accessibility, vehicle manoeuvrability (and exhaust emissions), matters of civic pride and any additional criteria for drivers are all matters that should be determined by individual licensing authorities.

Any requirements relating to the display of plates and signage (including any provision for exemption from display) by private hire vehicles should only be those prescribed by national standards.

Powers of enforcement in relation to national standards of roadworthiness should not only be exercisable nationally by a police constable, but should be extended to authorised officers of all licensing authorities and to VOSA officers, subject to them all being appropriately trained and acting in accordance with statutory guidance.

If officers of those agencies were trained to a national standard of competence, all could be authorised to issue fixed penalty notices for vehicle unroadworthiness and empowered to remove a vehicle licence plate immediately upon suspension of the licence.

If the fines paid in relation to such fixed penalty notices were collected in the same way as any other motoring fixed penalty fine, the revenue could be distributed between licensing authorities, police forces and VOSA to provide appropriate funding for future enforcement.

Police powers should be extended to provide for the seizure of unlicensed vehicles used for licensable purposes, with the courts being empowered to order forfeiture and the proceeds of any such sale to be used solely for the purpose of funding future enforcement.

By financing enforcement costs with revenue from fixed penalty and court imposed fines, and the proceeds of sale of court forfeited unlicensed vehicles, the only costs to be paid by an applicant would be those relating to processing and determining their application. The fees to be charged for making an application (as opposed to being paid on grant) should be set nationally, if standards are set nationally. If a licensing authority were to impose additional requirements for taxis, the costs relating to those requirements should be set and charged by the licensing authority in addition to nationally set licensing fees.

Councils should retain, and Transport for London should be given, the ability to impose quantity restrictions for taxis, because in some areas regulating numbers is the only way to prevent over-ranking and obstruction (which can give rise to public disorder), congestion and pollution by oversupply. The creation of a single tier would

exacerbate those problems and create new problems relating to when and where a single tier taxi could stand or ply for hire.

The ability to introduce peak time only taxi plates, in areas imposing quantity restrictions, might provide the means to meet peak and off peak demand, with numbers of vehicles appropriate for the levels of demand at those different times. However, because the introduction of such plates would be likely to confuse the public and create another regulatory burden to be enforced, I am opposed to their introduction.

If new legislation included a statutory definition of 'plying for hire', there would remain circumstances in which a vehicle hire resulted from facts that were neither plying for hire nor pre-booked. Rather than defining 'plying for hire', new legislation should make all arrangements for hiring a vehicle with up to eight passenger seats illegal, unless permitted by a licence, or exceptionally the type of vehicle or its use are exempt from licensing by the Secretary of State and Welsh Ministers.

As public safety is a key justification for licensing taxi and private hire services, anyone who provides passenger transport must be subject to licensing, even if that service is provided under contract with a public authority, ancillary to their main business activity or voluntarily. The impact that may have on restricting the use of vehicles by unlicensed drivers could be eliminated by permitting unlicensed drivers to use licensed vehicles for leisure or other purposes, subject to there being a presumption that an unlicensed driver carrying passengers would be acting illegally, unless they were able to prove that such passengers were not being carried for a licensable purpose.

Operator licensing should apply to anyone who is concerned in accepting or managing bookings for taxis or private hire vehicles, because otherwise anyone wishing to avoid regulatory control could circumvent it by describing themselves as an intermediary.

Regulating the activities of taxi and private hire operators and intermediaries is not only necessary to ensure that potentially sensitive customer information is kept safe, but also because it contributes to protecting the exclusive right of a taxi to stand and ply for hire.

Despite the fact that taxi booking agents are wholly unregulated and London private hire operators are already permitted to sub-contract bookings to an operator anywhere in England, Wales and Scotland, no taxi booking agent or London private hire operator has become dominant nationally. If the ability to sub-contract bookings to a licensed operator anywhere in England and Wales (and Scotland) was extended to all operators, I do not believe this would result in monopolistic market domination, as long as the ability to become licensed as an operator was not made financial prohibitive by regulation.

Whilst some may be concerned that removing the requirement for private hire vehicle, driver and operator licences to be issued by the same authority will reduce regulatory control, attaching appropriate conditions to licences and linking them with criminal and civil sanctions should maintain, if not improve regulatory control.

Public safety would be enhanced by improving the public's understanding of the intrinsic differences between the two tiers by replacing the existing legal terminology with clearly understood alternatives, such as taxi and booked or pre-booked taxi.

I hope my views will help the Law Commission refine its proposals for reforming the law of taxi and private hire services, and look forward to seeing its final report and draft Bill when they are published.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K. Rowland', with a long horizontal flourish extending to the right.

Kevin J Rowland
a2z Licensing Ltd

Email:
Mobile:



CHANGES TO TAXI AND PRIVATE HIRE REGULATION CONSULTATION BY LAW COMMISSIONERS-

COMMENTS FROM LIVERPOOL WHEELCHAIR USER GROUP SEPTEMBER 2012



INTRODUCTION

It has come to our notice, that the Law Commission is carrying out a consultation on proposals for regulation of taxis (often known as hackney cab, after the horse drawn early version) and private hire vehicle services. May 2012- September 2012, and we value the opportunity to contribute to the discussion

SUMMARY

- We understand the current national government administration, wish to explore substantial deregulation of hackney cab and private hire vehicles.
- We wish to register important concern that disabled people, especially wheelchair users both in urban and rural areas, are not disadvantaged by any changes in regulation. Central Government and local authorities, should take heed of cases such as Lunt v Liverpool City Council 2009, when the judge found the Equality Impact Assessment grossly inadequate. The judgement contains a number of important statements on the scope of the duties on public authorities under ss21B-21E on the Disability Discrimination Act 1995 (DDA), in particular the duty to take reasonable steps to ensure a practice, policy or procedure does not make it impossible or unreasonably difficult for disabled people to receive a benefit intended to be conferred. It also confirms the suitability of judicial review as a means of bringing a direct discrimination claim in an appropriate case, and the relevance of a material error of fact to compliance with the 'due regard' duty under s49A DDA.

- Increasingly Wheelchair designs and dimensions have become longer and more complex to better meet the needs of a population of an estimated 20,000 wheelchair users per 1 million head of population The Department of Transport has badly failed in its duty to renew surveys such as David Hitchcock, Michael Hussey, Stephen Burchill and Magdalen Galley CEDS © 2006. Without bringing up to date such surveys, monitoring the increasing number of chairs exceeding the DDA Reference Chair, leads to over reliance on manufacturers claims and meaningless phrases such as 'fully wheelchair Accessible'
- Whilst some improvements to a better experience for wheelchair users can be made with compulsory driver training,(raising the question of who pays for it), , and less moving and handling strain for,drivers,, the biggest contributions to finding many more solutions for many more wheelchair users is a diversity of cab designs.which not only meet minimum standards, but exceed them especially the Peugeot E7 with one of the largest passenger areas at present available in the UK in a Hackney cab design. This specification is not just a difference on paper from other smaller cabs such as the LTI TX4,, but a vast amount of reduced strain and difficulty on driver and passenger
- Consideration should be given to creative ways of maintaining and increasing the availability of Wheelchair Accessible Vehicles (WAV) Hackney cabs for door to door short notice transport.
- For example, consideration may need to be given , with clear direction by Central Government, to Local Authorities for them to make subsidies or reduction in license fee arrangements for owners operating wheelchair accessible vehicles (WAVS) , in contrast to Non WAV vehicles, If the likelihood and alternative is losing the availability to WAVS in a local area.

BACKGROUND

- the taxi and private hire industry is a mixture of micro businesses of individual owner/ drivers, small fleets, and increasingly large call centres who charge drivers for their services in getting business for them.

- to this is added the responsibilities for regulation by local authorities of vehicles, driver conduct, not just by administering through licensing, but making regulations, not least of the numbers and minimum standards of vehicles, especially hackney cabs, sometimes copying, sometimes at variance with Transport for London.
- This has resulted in great variation across the country of regulations, licences and their costs.
- LWUG wish to recognise and celebrate many achievements in making increased opportunities of safe, reliable door to door transport for wheelchair users, alongside many other disabled people, and the vital role that licensed Wheelchair Accessible Vehicles (WAVs) make to door to door transport.
- The first hurdle to build on the positives, is the separate issue of the technical availability (through licensing) of a cab that has a revised standard. There should be great concern and investigation of how the proposed 'interim standard' eg. 1100mm length, after the DfT consultation, (Improving Access to Taxis Feb 2011) was arrived at, which is astonishingly lower than the widely DDA reference chair standard eg. 1200mm length and a backward step, when wheelchairs are 'getting longer'
- The second hurdle is recognition at a local and national level that in a range of taxi designs now available some, especially the Peugeot E7 with larger passenger areas and longer and shallower ramps, will provide many more solutions for many more people occupying their wheelchairs for travel. The comparison of Taxi designs in the Licensing committees from our researches across the UK have often taken on the feel of a beauty or political contest., with emotive phrases like 'purpose built versus converted' 'recognition of icons'
- There are no perfect specifications of a hackney type vehicle that is available or likely to be available in the foreseeable future. to accommodate all and every design. A tall person in a tall wheelchair is particularly difficult to accommodate, and a diversity of licensed WAV taxis and access features within a basic framework of appropriate clear/ transparent/ accountable standards will allow a diversity of needs to be met and a diversity of manufacturers to innovate in their designs. And access features

- The third hurdle is to take steps to ensure that both in a large city such as Liverpool or a small town or rural area, that WAVs are available in numbers in all our communities for door to door transport at short notice.
- There needs to be recognition for those creating the framework for licensing, that it is under the Equality Act 2010, so that
- The daily reality is that for many people who need to remain in their wheelchair when travelling, an accessible, on demand taxi is often the only possible form of door to door transport to get from home to shops, family, friends, hospital appointments, to get on with life in a community and outside the home.

THE REASONABLE ASPIRATION

- **The reasonable aspiration and ability for a wheelchair user is to travel safe and secured in Liverpool and all parts of the UK , including being accompanied by family/ friends.**

ISSUES

- **key components to make this a reality in all communities of the UK**
 - A) firstly there is **the technical specification of a vehicle and its fittings, its potential the diverse needs of many disabled people**, in practice its ability to accommodate an particular sized occupied wheelchair, the ease of access by a stable secure ramp, with a shallow a gradient as possible There is no such thing as ‘fully wheelchair accessible cab design as pointed out by the Dept. of Transport paper ‘ towards better Access to Taxis’ Feb 2011.

- B) The current archaic restrictive turning circle requirement for WAV cabs as a criteria, blocking larger, newer and innovative designs of wav cab such as the Peugeot E7 was successfully challenged in Liverpool in 2009. The E7 has demonstrated time and time again in cities up and down the UK is safe successful use , yet it is still a barrier preventing access to cab designs, including the Peugeot e7 with a substantially larger passenger area and shallower ramp, that can contribute many more solutions for many more wheelchair users to travel safely, and secured with ease and with companions, notably in Manchester and London.. Abolishing the turning circle restriction for taxis would all wheelchair users across the country access to a range of cab designs. The anomaly is easily demonstrated. A wheelchair user in Liverpool may ring or hail a larger cab, the Peugeot E7, knowing it is easier for themselves and the driver, travel comfortably and most importantly safe and secure with wheelchair and personal restraints to the Limestreet Station, arrive later at Euston, knowing they will be forced to travel to their local destination, sideways and unsecured, only able to travel in the smaller LTi TX cab or a Mercedes, because current archaic turning circle regulation bars drivers in the London area from putting a Peugeot E7 or similar on the road!
- C) What we are all lacking is that Wheelchair customers and all stakeholders need better clear, independent and accessible information about specifications of different cab designs These could easily be by provided on the Department of Transport website, and cascading that information through local authorities. This enables people to make informed choices, rather than some arguments and objections persistently made in town halls up and down the country, to the Peugeot E7 and other larger cab as little more than more than folklaw.

C) the availability to hail on the street or through a call centre of a specific cab design and , which includes taxi drivers who are both competent and cooperative to use the fittings.

...

- it is important to note that there are alternatives to WAV taxis, but these. other forms of **specialist travel such as merseylink bus**, including in the Liverpool i area, whilst valued, are scarce, oversubscribed and have to be prebooked by several days, that is if they are indeed available. They don't meet the need for door to door- on demand- transport which WAV taxis provide.
- We would also like to register concern with the DoT that these Super WAV services, dial a ride , Merseylink etc. are vulnerable to cuts and we are concerned in a reduction of these services as there are significant numbers of people with specialist and larger wheelchairs , and those who get their independence from powered scooters, who exceed the accessible space and size and are unable to travel safely in any of the current WAV cabs , to the best of our knowledge.

SIZE IS IMPORTANT!

- In reducing potential strain and encouraging positive enthusiasm in drivers

- <http://www.taxi-driver.co.uk/wheelchair.pdf> this study for the HSE in 2005 highlights the potential risk of strain and accumulative injury by the moving and handling tasks in assisting a wheelchair user. Whilst it is important to highlight the benefits of various facilities on a vehicle eg. a shallower Angle of a cab access ramp under a variety of conditions, off pavement, off road surface, substantially reduces the efforts to push an occupied wheelchair into a cab or bring it out, in line with widespread moving and handling practice. iThe greatest benefit is a passenger compartment with a less confined area with drivers who are back aware and plan out their tasks in manouvring/ turning a wheelchair, attaching seatbelts, seatbelt extensions etc. In an ergonomic manner. It is frequently the bending and twisting movements to carry out tasks on or near the floor, reaching underneath, legs, bits of wheelchair that can lead to accumulative strain and back pain .
- **A basic accepted principle is the larger the floor space, the easier it is to plan and minimise positions and twisting and reaching movements at a distance from the body's centre of gravity.**
- We recommend that in discussions with the HSE , this 2005 study should be repeated, including use of wav taxis that have become available since. Moving and handling advice and practices have progressed since 2005, for instance in health and social care, and such a study should give better guidance to instructors of driver training programmes, to concentrate on personal back awareness and greater emphasis on ergonomic planning and positioning.

- **We have found with our experiences, that the anticipation by a driver of the moving and handling and positioning strain in carrying out turning and securing tasks in the relatively confined area of the back of many the smaller available cabs wav taxis, is one of the major reasons for the observed behaviour of drivers on a rank to refuse or particularly when hailed, to stop for wheelchair users**
- We also consider that the challenge and struggles of carrying out turning and securing/ unsecuring of occupied chairs in many of the smaller designs of cabs leads to the widespread foolish practice of both wheelchair passengers and drivers to foolishly and dangerously collude in parking up sideways when traveling see Lowland report 2008.

WHEELCHAIR SIZES ARE GROWING but the DoT has not kept up monitoring.

especially in length and occupied are increasingly exceeding both the DDA reference and iso standards.

<http://assets.dft.gov.uk/publications/wheelchairs-and-mobility-scooters/veyofoccupiedwheelchairs1181.pdf>

This strategic and important survey by Hitchcock and others for the DoT in 2005 evidences how rapidly manual and powered wheelchairs and scooters are growing in size especially length to better meet the needs of disabled people. We hope the DoT could be encouraged to repeat this survey. Already in 2005 as the graph shows, many wheelchairs are longer and exceed the DDA reference chair length of 1200mm.

CENTRAL GOVERNMENT ROLE IN PUSHING FOR, ENABLING THE FURTHER DEVELOPMENT OF CAB DESIGNS WITH MORE SPACE TO MEET MORE NEEDS

The Department of Transport put out a Consultation Paper 'Improving Access to Taxis' in February 2009, it is concerning that neither the original document or the responses are now available on their website! This is an unusual step and stakeholders would benefit an explanation, as part of clear transparent Government.

. The 2009 paper least gives some encouragement to the growing number of wheelchair users now and in the future with larger wheelchair sizes, who don't want to remain marooned at home or travelling sideways, dangerously and unsecured, that the Department of Transport are recognising the need. We should be, yes, celebrating the current achievements in the UK of having at least partially WAV's on our streets, compared with many countries around the World , but also starting to face up to the shortcomings

in specification of many of these WAVs and attempting to make a road to improvements.

Shown in studies for the DoT 1992 and 2005, there are increasing numbers of people with chairs that exceed the DDA reference standard. The 2009 paper is helpful in proposing a number of standards and exploring how they could be achieved. .

What must be accepted and owned up to, a **major fault and concern ,that the paper 'Improving Access to Taxis 2009' focuses on an initial specification with a wheelchair length of only 1130mm, much shorter than the DDA ref chair of 1200mm and by the survey of Hitchcock et al 2005, would exclude over 50% of wheelchair users from safe travel!** We are deeply unhappy with such a short or low interim standard and would like clarity and transparency of the mechanism on how the chosen figure of 1130mm was arrived at.

As LWUG has highlighted elsewhere, the reality of the situation we get to hear about, and as recorded in Lowland report 2008

- 96% of wheelchair users in London style cabs travel sideways and unsecured*
- 149,000 wheelchairs users have little chance of travelling safely in local hackney taxis**
- 39,000 wheelchairs users have no chance of travelling safely in local hackney taxis**

and Yet spokespersons for Licensing Authorities such as Manchester, Peterborough London will still **say** that their taxi fleets are "100% wheelchair accessible". However, merely attaching a ramp to the side of a vehicle is **not** the same as making it wheelchair accessible. In practice, 'London-style' taxis now have access ramps, if they are carried in the vehicle, or have not rusted into the vehicle floor, then that may make it possible to push a wheelchair **into** the vehicle but then there is very little flat floor space in which to **turn** the wheelchair into the correct, rearward-facing position for travel.

In practice, the day-to-day result is that taxi drivers, even starting out with the best of motives, are very unlikely to attempt to manoeuvre the wheelchair user into the correct position and instead, typically leave the wheelchair as it entered – sitting sideways. This in turn means that the wheelchair cannot be secured within the cab, nor can seat belts be used by the wheelchair occupant.

. The more cavalier of passengers collude with drivers, and merely park up sideways, unsecured, at great risk to themselves and anyone who squeezes in the back passenger area with them, and convince themselves that the accident is not going to happen to them. In conversations “ I am only going for a short distance”

The more anxious or concerned travellers, shaken after a few bad experiences , bumps and near misses, take the step of totally giving up travelling by cab, and we sadly come across many, who remain marooned at home because of this.

There is a danger in adjustment to regulations, that particularly in rural areas, drivers migrate from way taxis to private hire. There may be a need to look at local financial subsidy for individual wheelchair accessible vehicles. This is in use in parts of Australia, We accept we are unlikely to see major UK government grants for manufacturers to develop new vehicles., not least the difficulty of creating a level playing field opportunity of assistance. Companies such as LTI, now part of, we understand, a Chinese based Goup, Manganese Bronze, have been open enough to say the finances from projected sales in the UK, just aren't there to design a car completely from scratch

SPECIFICATIONS OF WHEELCHAIR ACCESSIBLE VEHICLES

Department of Transport own surveys have clearly demonstrated there are increasing numbers of wheelchairs, manual and powered which are exceeding the size of the disability discrimination act (DDA) reference chair 1200mm long 700mm width. We would like to see long term responses to improving access to taxis 2009.

- A) at present, in Liverpool, taxis or hackney cabs submitted for licensing are required to be 'wheelchair accessible'. The difficulty is that even with the current 'DDA reference wheelchair eg. length 1200mm standard', increasing numbers of people are needing and using chairs that exceed this 'standard'. In our experiences, we need vehicles that will meet higher specifications, particularly larger cab floor space, shallower ramp gradients.

Having been the result of a successful legal challenge against opposition, Liverpool Council currently accept for license other designs, including the Peugeot E7, with a larger body size, which has many features to safely assist especially those with larger wheelchairs, contributing more solutions to more disabled people, than just the traditional steel chassis based designs of the LTI series.

We note with concern, In the absence of better leadership and guidance by Central Government, which we consider has still been abdicating its responsibility, It has been left to local authorities to sort out the mess., The gradual withdrawal of the restricted turning circle requirement, has painful and slowly taken place, piecemeal, local authority by local authority, with roadshows mainly from LTI and Cab Direct.presenting and re-presenting issues

The continuing adherence and compliance with the archaic widely discredited turning circle requirement, as a safety feature by London Transport, which notably still occurs London and Manchester, and a handful of smaller authorities, is not some interesting beaurauratic anomaly, and results in a large number of drivers not securing wheelchair passengers, and the wheelchair users foolishly colluding, to avoid hassle:. Either you travel this sideways and unsecured,dangerous way, if you have anything bigger than the small range of wheelchair.....or you do not travel at all see Lowland report 2008

Recommendations

1. THE Department of Transport should carry out a clear independent measurement of a number of key dimensions of WAVs, especially dimensions inside, and record them on a suitable web page, to assist individuals, taxi operators, licensing authorities with information to help make decisions.

As WAV taxi manufacturers make developments and improvements (hopefully!) they can present them to the D of T to be measured. this avoids reliance by many parties including Local Authorities. on manufacturers data and selective information.

2. Two important pieces of research should be updates, firstly the Dept. of Transport should be encouraged to re-commission the survey of wheelchair sizes by David Hitchcock, Michael Hussey, Stephen Burchill and Magdalen Galley CEDS © 2006 and in conjunction with the HSE, re-run an important moving and handling risk assessment study of manouvring occupied wheelchairs in the confined space of WAV hackney cabs currently available
3. formal Driver training should have a focus on back awareness, TO HELP DRIVERS ERONOMICALLY PLAN THEIR BODY POSITIONS WHEN THEY CARRY OUT TASKS, this is an accepted approach in health and social care settings, and likely result in more drivers being ready to assist and stop refusing fares to wheelchair users.

Yes designing and manufacturing and selling hackney cabs is about commercial businesses. The running of hackney cabs and private hire, the current categories, by owner drivers or large companies is about commercial business. BUT, through manufacturers, LTi and its predecessors were pioneers and now joined by other manufacturers and designers of Hackney cabs that enable wheelchair users who need to occupy their chair when travelling, an important level of independent travel.

We recognise there are a great deal of issues in the overall regulation . As a wheelchair user group, We are concerned that any changes legislation and licensing might stall finances for the further development of increasing vehicle specifications and for the next 5-10 years see numbers of vehicles that meet and exceed current access standards,

WE are also keen for the UK Government to ensure there is an increase of availability of such vehicles across the UK, and not a reduction as a result of less regulation. Central Government as well as local Government, should do this through the process of robust and comprehensive Equality impact Assessments

local authorities as well as individual companies and drivers have responsibilities under the DDA / Equality Act to ensure there is greater accessible Door to door , on demand transport and to take reasonable and practicable measures to do so , and not just leave its provision to the 'free market'

John Bruce Secretary on behalf of

Liverpool Wheelchair User Group September 2012

LWUG RESPONSES TO SPECIFIC QUESTIONS

CHAPTER 18 – TAXI AND PRIVATE HIRE REFORM AND EQUALITY

Question 57

Should there be a separate licence category for wheelchair accessible vehicles? This could involve: duty on the licensee to give priority to disabled passengers;

(1) This would be difficult to 'police and patrol' with many hackney vehicles in Liverpool as an example, may identify a fare by radio booking or on street or on rank.. How do they judge a priority?

(2) Since 2009/10 in Liverpool with a growing number of Peugeot E7's with the larger passenger area and glideasy ramp, we are aware of the regular rank practice, that if a wheelchair user approaches a rank, a driver with traditional LTi TX cab at the front of the rank, they frequently suggest the passenger goes down the rank to a Peugeot E7 if there is one there

(2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. (Page 217)

The original days of the hackney ranks goes back to the days of horse drawn hackneys. The dual purpose was for the public to be able to go to a place where an authorised, regulated cab could be found. It also stops parked cabs waiting for a fare from cluttering up the streets causing congestion. In Liverpool we are working with highways, and access groups to introduce Kassel kerbs at a number of ranks, to make entry and exit easier for both people with reduced mobility and wheelchair users.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? (Page 217)

A We are concerned that a result of some deregulations, that there is less incentive to put WAV hackneys on the road, and that Licensing Authorities should be allowed powers to reduce fees to incentivise WAVs

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? (Page 217)

A The DoT should encourage creative solutions and vehicles whilst they have much in the way of access features are not excessively expensive, which in our opinion was the way LTI and the TX designs were going until competition and alternatives came in

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. (Page 218)

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. (Page 219)

A We have been pleased in general with the Liverpool UNITE based programme, but concerned about how is this to be funded long term.. If it is discretionary, only the 'good guys' are likely to do it. If it is compulsory there is a lot of funding to do by Local authorities, will the market sustain further increases in licensing fees?

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. (Page 219)

A It is reasonable for vehicles to be required to carry Authority printed Compliments and complaint leaflets. As well

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? (Page 220) **Taxi and Private Hire Services**

Whilst laudable, this is difficult to police or regulate Below is a selection of comments in response to a local paper article on individuals and a local taxi lobbying the Coventry committee to see the need for diversity in taxi designs and specifically overturning the "25 ft" turning circle restriction and locally licensing the Peugeot E7, now widespread in safe use across 90+% of local authorities. It is helpful to share the details of it, because the issues and expression of views, resonate and are mirrored across the UK, even before Licensing committees.

What is likely to motivate a cab driver to run a WAV and to stop? A cab design with easy to deploy ramps and ramp extensions, designs with shallower gradients for less strain loading an occupied wheelchair and maximum passenger area for ease of loading turning to rear facing position, and plenty space to look after his/ her ergonomic body position, by being back aware.

The comments from SS, the independent consultant are intriguing. Refresher driver training can be useful, but what is so wrong with allowing use of vehicles with larger passenger area type eg. the Peugeot E7 or similar already in widespread use?.

Wheels88

5:43 PM on 24/6/2012

"Just last night I was on a night out in Coventry, after - i went for a taxi home, it was raining heavily, one taxi driver had an older style taxi who didn't have the appropriate ramps to take me, I was okay with this, he stayed with me outside his cab in the rain, flagged another one down, this other taxi driver looked at me and said "I'm not getting out to help him its raining, I can't take him" - he said, me and the first taxi driver then flagged another taxi down, this time it was very kind man who was eager to help take me home.

So many taxi drivers are ignorant in Coventry, there are very few who are decent people like the taxi driver who assisted me with finding an alternative taxi and the one who took me home.

Coventry CC need to get the heads in gear and out of their rear-end and allow suitable bigger vehicles to be taxis.

Coupled with the 'c r a p' bus changes that have come in to effect, living in Coventry with a Disability is a rather dire experience.

While Coventry is one of the worst places in the country for this problem, it has to be noted these problems are country wide....

Score: 1 Name withheld s s74

9:46 AM on 25/6/2012

I am an experienced leading independent disability issues consultant, trainer and activist living in Coventry. I also have cerebral palsy, which affects my speech, mobility, hand control, balance and continence to a significant degree as well as providing me with a very good sense of humour.

I am an electric wheelchair user and I use taxis to and from the train station and I often have problems from the train station, especially in peak hours. I heard every argument under the sun. The facts is the seats in the back can be lifted in most taxis and therefore electric chairs can be turned and restrained, NOT that any driver as EVER done this in Coventry. If I Z chairman of Coventry Taxi Association, is unaware of how to operate a taxi properly, he may wish to consider his position. I have been working with the council and Virgin trains, as the station operator, on this matter and I complain systematically about any driver who refuses me, who may lost their permit at the station and/or their license and indeed have. So it is the council who will take drivers to court if they refuse to take passengers in wheelchairs.

Score: 1 Name withheld cabbie

some cabbie's will NOT take wheelchairs it would not matter

what vehicle they drive. The problem is most disable people

will not make a formal complaint, so the council hands are tied.

Full acknowledgments to <http://www.coventrytelegraph.net/news/coventry-news/2012/06/23/disabled-taxi-dispute-could-see-legal-action-against-coventry-city-council-92746-31242540/#sitelife-commentsWidget-bottom#ixzz262qO1MSH>

Please do contact us if you would like to clarify any issues or contribute to further discussion. It is quite hard to write down and cover all the issues

LWUG



Open date: 10 May 2012

Close date: 10 September 2012

We published a consultation paper with our provisional proposals for reform of the legal framework relating to taxis and private hire vehicles on 10 May 2012.

These proposals retain the important distinction between taxis – which can “ply for hire” on the street or a cab rank – and private hire vehicles which can only be pre-booked.

But all vehicles would be subject to national minimum safety standards and, for private hire vehicles, these would replace more than 340 sets of local regulations. This will reduce the burden on business because, once appropriately licensed, a private hire firm could work freely across the country, without geographical restrictions. This would contribute to widening consumer choice and to making services cheaper and more competitive.

We also make suggestions covering a wide range of issues, including improving provision for persons with disabilities, quantity restrictions and enforcement.

Please send responses either by email to tph@lawcommission.gsi.gov.uk or by post to Public Law Team (Taxi and Private Hire), Law Commission, Steel House, 11 Tothill Street, London SW1H 9LJ. If you send your comments by post, it would be helpful if, where possible, you could also send them electronically (in any commonly used format).

This consultation relates to our [Taxi and Private Hire Services](#) project.

Reference number: LCCP203

- [Taxi and Private Hire Services Consultation \[PDF, 0.72mb\]](#)
- [Taxi and Private Hire Services Summary \[PDF, 1.44mb\]](#)
- [Taxi and Private Hire Services List of Provisional Proposals and Questions \[PDF, 0.07mb\]](#)

- [Taxi and Private Hire Services Impact Assessment \[PDF, 0.25mb\]](#) - Following feedback we produced a revised draft of the impact assessment stripping out the data which appears unsatisfactory or not robust and to ask further questions. We welcome further comment on the data and would be grateful for further information.

The Law Commission is an advisory non-departmental public body sponsored by the Ministry of Justice

Consultation Response

From Colin Parr,
Licensing Manager

To The Law Commission

cc Councillor John Reynolds,
Cabinet Member, City Services

Tel. No. [REDACTED]

Councillor Bishan Dass,
Licensing Committee, Chair

Date 06/09/12

All Licensing Committee Members

Nick Edwards,
Assistant Director, Regeneration

Andy Jervis,
Head of Regulatory Services

CONSULTATION RESPONSE TO LAW COMMISSION PROVISIONAL REFORM PROPOSALS FOR TAXI LICENSING

This consultation response is sent from Wolverhampton City Council in its capacity as a Licensing Authority.

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. (Page 160)

Maintaining a two tier system differentiated by 'plying for hire' and 'ranking' is unnecessary, offers little consumer confidence, will not alleviate the problems of night time economy violence associated with city/town centre dispersal and will represent an unnecessary burden on the trade and licensing authorities as the significant costs of enforcing the border between the two tiers of vehicle will remain.

These issues and a response to some of the justification for the proposal are explored in more detail below.

Consumer Confusion

Evidence collected from various sources over several years in Wolverhampton indicates that customer in the night time economy for transportation services is split about approximately 75% to 25% in favour of flagged down vehicles. Many customers are unaware of the distinction between taxis and private hire vehicles, this is aggravated by the differing standards of taxis licensed from area to area. Hackneys from neighbouring rural boroughs are primarily saloon vehicles (which is quite appropriate in such areas) however these vehicles often come to metropolitan areas and illegally ply for hire.

An opportunity is being missed to provide a simplistic system whereby all vehicles are able to complete both hailed and pre-booked work. This is already the case for Hackney Carriages and the proposals are not suggesting to remove this. This draws into question the logic of maintaining a two tier system which already confuses customers, whereby one vehicle (which will continue to differ in type from area to area) is free to complete all work and another is restricted in the type work it may take.

Regulation of Fares

It has been argued that the pre-booked market is a relatively complete market and that there is little need for regulation beyond a 'light touch' approach (see response to proposal 27), whereas taxi services because of the nature of the transaction require a higher level of regulation.

If this argument were to be accepted, then the solution put forward to it (maintain the existing two tier system) is at best weak. A simpler solution and one that would create a far more complete market would be to allow all licensed vehicles accept flag down and rank (see further suggestion below) work, subject to a regulated fare being charged. This fare could be set at a local/regional or sub-regional level. This would not restrict vehicles from doing pre-booked work at whatever rate they deemed fit.

The enforcement of this approach would differ little from the current enforcement of Hackney Carriages, which can already take both types of fares. In any event the enforcement of the above would represent a significant step forward from the current system, in which the enforcement of illegal plying for hire is a continual burden on the Council and in turn a burden on the trade as their fees are used to support this enforcement.

It was stated at a session with representatives of the Law Commission that it was argued during the development of the proposals that the system outlined above would be too difficult to enforce, I would challenge this subjective view and ask for further evidence of this. Again I would highlight the burden created by the current system which it is proposed to maintain.

Illegal Plying for Hire

The enforcement of this offence has been a local enforcement priority in Wolverhampton for over ten years. The Council has one of the highest levels of prosecutions for drivers committing this offence in the country. When convicted drivers are reviewed by the Council and normally face a six month suspension in the first instance and then revocation of their licence if they commit the offence again.

The Council delivers 36 overt and covert operations targeting this single offence every year. Two full time officers work exclusively on tackling the issue and with the support they receive from other officers, staffing costs alone are in excess of £100,000 per annum, this is charged directly back to the trade through licence fees. In the last five years the Council has prosecuted over 150 drivers for plying for hire offences.

Despite this level of enforcement activity the problem persists, the Hackney Carriage trade demand more enforcement, whilst the police request less as the drivers illegally plying for hire are helping to clear the City Centre and reduce violent crime.

Again an opportunity is being missed to consign this offence to the history books and allow customers to access vehicles without the risk of being uninsured, with a regulated fare and with a driver that is not breaking the law. At the same time this will free up resources to focus on less frequent, but much higher risk issues such as totally unregulated vehicles and drivers.

Rank Spaces

An argument that the trade have put forward is that too many vehicles being allowed to ply will lead to congestion and argument on and around ranks. Notwithstanding the fact that if this were true a much more competitive market will exist, discrediting some of the rationale for maintaining a two tier approach. If this is the case then a simple solution would be to allow licensing authorities far greater control over the vehicles that can use ranks.

For example ranks in city centre locations could be restricted to wheelchair accessible vehicles or vehicles no older than three years. This will allow councils to control access to ranks and manage driver expectations.

REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. (Page 162)

Wolverhampton City Council has no view as to whether the proposal should apply to vehicles operating in London.

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. (Page 164)

Wolverhampton City Council agrees with this element of the proposals.

Question 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? (Page 164)

Whilst this would provide clarity, any exceptions would be likely to be exploited, particularly in areas where there exists developed tourist trades.

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. (Page 165)

Agree.

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. (Page 166)

Agree.

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. *(Page 167)*

Agree.

Provisional proposal 8

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. *(Page 168)*

Agree. However, clear guidance is required on this definition.

Question 9

How, if at all, should the regulation of taxis and private hire deal with:

- (a) carpooling; and
- (b) members clubs? *(Page 170)*

(a) Not at all.
(b) Not at all.

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. *(Page 171)*

Yes.

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. *(Page 172)*

Agree.

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse? (Page 174)

No merits in this approach. Would inevitably be abused, as was the case before the loophole was closed and conflicts with proposal 3.

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets". (Page 175)

Agree.

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? (Page 177)

No view.

Provisional proposal 15

The defining feature of taxis, the concept of "plying for hire", should be placed on a statutory footing and include:

- (a) references to ranking and hailing;
- (b) a non-exhaustive list of factors indicating plying for hire; and
- (c) appropriate accommodation of the legitimate activities of private hire vehicles. (Page 181)

The offence should become obsolete.

In the absence of this a statutory definition could be introduced, however again this will need to be comprehensive and robust enough to ensure that no potential loopholes remain that could be exploited.

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. (Page 181)

Does this make any difference as taxis can carry out pre-booked work without an operator anyway?

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of "arrangements made in a public place" instead of "plying for hire"? (Page 182)

Potentially, H/E should remove the distinction. See response to proposal 1.

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained. (Page 182)

Agree this should remain for rank and hailed work.

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. (Page 183)

Agree, h/e prefer one tier system, see proposal 1 response.

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved. (Page 184)

Agree, however guidance is required in relation to display of signage etc.

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements. *(Page 185)*

Agree.

Provisional proposal 22

Reformed legislation should refer to "taxis" and "private hire vehicles" respectively. References to "hackney carriages" should be abandoned. *(Page 185)*

Agree.

Question 23

Should private hire vehicles be able to use terms such as "taxi" or "cab" in advertising provided they are only used in combination with terms like "pre-booked" and did not otherwise lead to customer confusion? *(Page 186)*

The retention of a two tier system will be the cause of customer confusion not the signage displayed.

A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements. (Page 188)

Agree.

National MINIMUM standards would be welcomed.

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards. (Page 189)

Agree, local discretion should remain.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. (Page 189)

Disagree.

National MINIMUM standards would be welcomed however local discretion should remain for licensing authorities to determine what is appropriate in their area.

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no longer apply to private hire drivers. (Page 190)

Disagree.

Private hire drivers should have a knowledge of the area in which they are working, they should be able to communicate effectively with passengers. Private Hire vehicles should be to a standard that is appropriate to the local area. To argue that market forces will control this is a nonsense and will penalise those most vulnerable in society that often rely heavily on such services.

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? (Page 190)

Yes, standards on signage, CCTV, vehicle standards, and many other factors should remain to be determined locally. However, this would appear to conflict with proposals that vehicles, drivers and operators can operate in any area, not just where licensed.

Question 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? (Page 191)

Few, provided these are MINIMUM standards and local controls can still be applied.

Foreign vehicles and consistency/enforcement of testing regime may present some issues.

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (Page 192)

No. Protection of the public is paramount and the standard of drivers should be as high as possible for all such services, both taxis and private hire vehicles will continue to work closely with the most vulnerable groups in society.

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety. (Page 192)

Agree.

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. (Page 193)

Agree.

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? (Page 193)

Agree a technical advisory panel should be established.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. (Page 193)

Agree.

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? (Page 194)

Yes.

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? (Page 194)

Yes, however again this is closely linked to the proposal to allow drivers, vehicles and operators to work across all areas, which would render such conditions pointless.

Question 37

Should the powers and duties of licensing authorities to co-operate be on a statutory footing or is it best left to local arrangements? (Page 195)

A statutory footing would assist, particularly when dealing with drivers from other areas operating illegally in a 'host' authority area, the 'host' authority should be able to review the drivers licence and suspend/revoke.

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. (Page 196)

Disagree, local variations will be made as appropriate to an area, as determined by elected members. If authorities wish to harmonise standards, then they may, there is no need to establish a statutory process for this.

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. (Page 196)

Agree.

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? (Page 197)

Strongly agree.

If a two tier system remains then a 'plying for hire' permit system should be introduced to allow Private Hire to ply during specific times within a designated area. Enforcement of this system would be no more difficult than the current approach and covered by the revenue from the permits. Vehicles permitted could have a 'lit roof sign' or other livery specified by the Local Authority to identify them to the public and enforcement officers.

The provision of taxis services is a key contributory factor to night time crime and disorder, this approach would potentially solve many of these problems.

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. (Page 198)

Disagree. This will significantly reduce the control of Local Authorities over Private Hire services. Also a requirement for where drivers and vehicles are licensed would be needed, either where you work or where you live (address vehicle registered at).

This has worked with personal licences under the LA03.

Provisional proposal 42

We do not propose to introduce a "return to area" requirement in respect of out-of-area drop offs. (Page 199)

Agree.

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares. (Page 200)

Agree. This is not necessarily the primary factor in not having a one tier fleet as it could be a statutory requirement that all rank/hailed work was on a meter and pre-booked fares were unregulated.

Again enforcement of this would be less onerous than establishing 'plying for hire'.

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (Page 200)

Yes.

REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING

Question 45

Should national driver safety standards such as the requirement to be a "fit and proper person" be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions? (Page 203)

No. Each case on own merits, h/e statutory guidance would be welcomed.

Provisional proposal 46

Vehicle owners should not be subject to "fit and proper" tests and the criteria applied would relate solely to the vehicle itself. (Page 204)

Agree.

Question 47

Should national vehicle safety standards be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions? (Page 205)

Yes. If introduced.

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. (Page 206)

Yes. However issues will be created by the geographic freedom these proposals would provide to operators.

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? (Page 208)

Yes. All pre-booked work even when carried out by a 'taxi' should be booked through an operator.

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. (Page 209)

No view.

Question 51

Should "fit and proper" criteria in respect of operators be retained? (Page 209)

Yes. H/E the geographical freedom could make this a non-issue.

Provisional proposal 52

Operators should be expressly permitted to sub-contract services. (Page 210)

Yes, within a framework outlined in statutory guidance.

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? (Page 210)

See question 49.

REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers. *(Page 213)*

Agree.

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? *(Page 213)*

None.

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed? *(Page 215)*

No view.

TAXI AND PRIVATE HIRE REFORM AND EQUALITY

Question 57

Should there be a separate licence category for wheelchair accessible vehicles?

This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. (Page 217)

No. However, LAs should be able to give priority for ranks to wheelchair accessible taxis, over other taxis.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? (Page 217)

Yes, or other incentives, such as outlined in question 57.

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? (Page 217)

See Question 57.

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. (Page 218)

Agree.

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. (Page 219)

Agree.

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. *(Page 219)*

Agree.

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? *(Page 220)*

Yes. A separate offence should also be created for such circumstances.

REFORMING ENFORCEMENT

Question 64

Should authorised licensing officers have the power to stop licensed vehicles? (Page 222)

Yes. However this creates potential safety and practical issues.

Question 65

What more could be done to address touting? Touting refers to the offence "in a public place, to solicit persons to hire vehicles to carry them as passengers". (Page 223)

Use of FPN's and short term suspensions as a sanction from the LA. A low evidential threshold should also be specified in guidance.

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? (Page 223)

Yes. The full cost of this should also be met by the proprietor of the vehicle.

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how? (Page 225)

FPNs to cover the following:

- **Private Hires on ranks**
- **Unattended Taxis on ranks**
- **Poss Plying for Hire**
- **No badge/plates/other livery**
- **Non-compliance with conditions**
- **Other circumstances deemed appropriate**

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. (Page 225)

Yes.

However controls are needed to ensure that LAs still bring in enough revenue to pay for enforcement, i.e. a requirement to licence where you primarily work or where you live.

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? (Page 226)

Yes.

Should also councils to review driver licences is they issue an FPN.

REFORM OF HEARINGS AND APPEALS

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. (Page 230)

Agree.

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. (Page 231)

Disagree.

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court. (Page 232)

Agree.

Question 73

Should there be an onward right of appeal to the Crown Court? (Page 233)

Disagree.

This completes the response to the consultation from Wolverhampton City Council in its capacity as a Licensing Authority.



C. Parr

**Licensing Manager
Wolverhampton City Council**

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CONSULTATION RESPONSE

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London
SW1H 9LJ

E-Mail tph@lawcommission.gsi.gov.uk

10 September 2012

Dear Sirs,

REFORMING THE LAW ON TAXI AND PRIVATE HIRE SERVICES

The Federation of British Historic Vehicle Clubs represents 500 subscriber organisations that between them have over quarter of a million enthusiasts for historic vehicles of all types. The Federation is also supported by 1500 specialist traders and individual enthusiasts. We ask you to bear in mind the large number of people we represent when considering this response. For the purposes of this consultation response we consider an historic vehicle to be one that is over 30 years old and our responses are confined to matters concerning vehicles of that age group.

Last year the Federation undertook a nationwide survey, in conjunction with the Historic Vehicle Research Institute and University of Brighton, that demonstrated that the hobby surrounding the preservation of historic vehicles generates £4.3 billion for the UK economy and supports employment for 28,000 people. Few of the businesses working within the historic vehicle movement employ more than a dozen people and many are sole traders with modest annual turnover. Among them is a small group of people who rely on using historic vehicles for wedding hire for some of their income.

We hope you appreciate from the above that very few of FBHVC club members are concerned with normal day-to-day commercial operation of taxis and private hire vehicles as their main employment.

Whilst the Federation sympathise with the move to standardise regulation for private hire vehicles we are deeply concerned with the report's initial proposal to remove the existing exemption for wedding and funeral vehicles. The Federation believes that this type of limited activity by a small number of historic vehicle owners has been overlooked; there is no mention of historic vehicles in the report (or Impact Study) although 'novelty' vehicles are mentioned. (The FBHVC contacted a Traffic Commissioner very recently and he was unable to define what vehicles this term included.) The Federation asks that a limited exemption for historic vehicles should be included in draft replacement legislation, either primary or secondary, to allow for continuance of this long established concession. We estimate that fewer than one or two per cent of owners use their cherished items of transport heritage for this activity.

Federation of British Historic Vehicle Clubs Ltd, Stonewold, Berrick Salome, Oxfordshire OX10 6JR

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"... to uphold the freedom ..."

To expose individual historic vehicle owners to the full panoply of operator licensing, local driver licensing, CRB checks, Local Authority safety inspections checks etc, with all the associated costs, would effectively mean that no one would continue to offer this low volume, low risk, niche activity and the general public would be denied the chance to enjoy a part of the UK's rich motoring heritage.

Inevitably any standardised regulations regarding taxi and private hire will focus on the vehicles in daily use which provide transport for the public over the full 24 hour timescale. The physical characteristics of such vehicles will change as more legislation regarding safety and the environment will dictate the type of construction of acceptable passenger carrying vehicles.

We ask that you reconsider your views and consider the following points:

- 1) The vehicles under threat are very small in number compared with those in normal operation.
- 2) The vehicle age range spans over 100 years making safety testing to a standardised regime by Local Authorities impractical, let alone coping with necessary vehicle age limits imposed for modern taxis and private hire.
- 3) With regard to CRB checks, it is extremely rare that vulnerable children are unaccompanied on these (limited) occasions.
- 4) The operation of these elderly machines is at best only marginally profitable; is usually undertaken for the joy of owning and using such vehicles; and is greatly appreciated by the public. Restoration and running costs are high and opportunities for hire severely limited. This is a very limited operation both in mileage and time.
- 5) Whilst the majority of people offering historic vehicle wedding hire are individuals there are some commercial concerns (albeit run by vehicle enthusiasts expanding their hobby) but if they offer the same historic vehicles for other events they would be covered by normal legislative requirements. This has caused complications in some geographical areas, as some Local Authorities have thrown out applications and used the maximum age rule to stifle these ventures. The FBHVC believe that standardising the rules with the suggested exemptions would overcome this problem the historic vehicle owners. The majority of the drivers are chosen for their familiarity with old vehicles (many are vehicle owning enthusiasts) and most are part time for a very few days each year: thus the cost of compliance would be disproportionate and largely unaffordable.
- 6) The Federation feel that an annual inspection is essential and the existing MoT test (with all the appropriate age and component exemptions) is the way forward. You may be unaware that the Government has recently allowed an exemption from MoT testing for pre-1960 vehicles. However they have accepted the continuance of the existing test regime on a voluntary basis for those who wish to continue with periodic testing. The FBHVC feel that all pre-1960 vehicles exempted in any revised taxi and private hire legislation (as suggested above) should be tested under this voluntary arrangement, since FBHVC supports the concept when members of the public are paying for a service. It is anticipated that other regulations will require similar modification and we have been recently requested to attend proposed stakeholder discussions with DfT officials on the consequences of MoT exemption.

It is vitally important that our submission receives a favourable reaction to prevent the disappearance of the UK's motoring heritage from an extremely small niche operation, which indirectly assists the preservation and public exposure of this heritage and gives a great deal of pleasure to the general public. We urge the Law Commission to draft the proposed Bill in such a way that the power of the Secretary of State/Welsh Ministers to make exclusions is sufficiently wide to enable the use of historic vehicles.



"... to uphold the freedom ..."

Representatives from the Federation are very willing to assist the Law Commission in connection with the above submission, including attendance at meetings.

Yours faithfully

David Hurley
Director, Legislation
Federation of British Historic Vehicle Clubs Ltd



Cc: Norman Baker MP, Under Secretary of State for Transport
Rt Hon Greg Knight MP, chairman, All Party Parliamentary Historic Vehicles Group

From: Jude Leitch [REDACTED]
Sent: 10 September 2012 16:25
To: TPH
Cc: Giles Ingram
Subject: Your consultation on taxis and private hire services.
Dear Sir/Madam,

Northumberland Tourism is pleased to respond to your current consultation on taxis and private hire services.

Northumberland Tourism is the Destination Marketing Organisation for tourism in Northumberland and our response has been considered by our board which consists of representatives of the county's tourism businesses and public sector partners.

We are very pleased that you are consulting on this issue as the difficulties experienced by tourism accommodation businesses in accessing taxis for their guests and staff where and when needed has long been a problem, especially in rural parts of the county.

We wish to support proposal 8 with particular reference to businesses being able to transport guests unlicensed in areas where taxis are generally not available. We believe that a relaxation of the current rules will greatly improve customer service and business viability particularly in more rural areas.

Yours sincerely,
Giles Ingram
Chief Executive
Northumberland Tourism

Jude Leitch
Tourism Development Manager
Northumberland Tourism

[REDACTED]

[REDACTED]

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From: Bentley, Tiffany [REDACTED]

Sent: 10 September 2012 16:31

To: TPH

Subject: Response to Consultation on Reforming the Law of Taxi & Private Hire Services

- Include limousines within scope of legislation for purposes of public safety
- Useful in national system to require taxis to record journeys (possibly via electronic meter?) as well as Private Hire. Record for public safety, enforcement and helping to decrease refusal to carry disabled passengers etc.
- CRB check to enhanced level
- Issue of knowledge test for drivers – not really applicable in large rural district such as ours
- Support idea of national fees to avoid migration to ‘cheaper’ councils
- It would be helpful to consider the effect of legislation change on community cars – better definition of exemptions surrounding this.
- Believe that there should be no exemptions from display of a plate for either taxis or Private Hire vehicles – promotion of public safety should require licensed vehicles to be easily identified and accountable.
- Problem regarding allowance of licensing officers to stop vehicles – practical implications of this as a power. Same for powers to issue fixed penalty notices and seizure powers – clarification work needed. Support for qualification requirement for issuing officer in these areas.
- Close loophole or at least confirm the split between local authority licensing scope and that of VOSA Traffic Commissioners e.g. vehicle size / no. of seats
- Requirement for a national register – seemingly vital for national approach to enforcement and an absolute necessity for promoting public safety through national standards.
- Support for cost recovery via fees – these are business licences not a service offered by the council.
- Permitting social use of licensed vehicle seems very problematic – enforcement practically impossible? E.g. how to obtain ID from driver.
- Would support making plying for hire a recordable offence or if possible endorseable on DVLA licence.
- Support for both national minimum standards and support for idea of local discretion in application of those standards e.g. equivalent of fit & proper person on the merits of each case.
- Cross boundary work – seemingly a fact and constrained by arbitrary council boundaries. Needs permitting with agreed procedures.
- No specific comment to make on quantity restriction as have no experience of it but would note that restrictions seem ideologically at odds with free market principles of the reform.
- Wary of disability access requirements becoming restrictive – experience shows that this does not just mean wheelchair accessible in fact a mixed fleet provides for different customer needs.

Despite successful challenge - personal experience of lack of knowledge on the bench when appeal heard by Magistrates so would support reconsideration of decision by local authority in first instance. Retention of appeal from then on to Magistrates and Crown Court as necessary.

Tiffany Bentley | Licensing Officer | Breckland Council
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Subject: Law Commission Consultation Paper No.203

REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICE

Question no 40

Peak time licences

This will lead to lower standard of vehicle safety and driving standards, please allow me to describe this as Cow Boy operation.

REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers.

Response:

As you have opened the discussion with the mention of “No statutory power to restrict numbers in London”. That Transport for London authority do not have these powers. But you would agree that these cabs need badge holder drivers to provide service to public and due to rigorous driving test in place in London, it takes four years to get a 1st badge.

(<http://www.tfl.gov.uk/businessandpartners/taxisandprivatehire/1412.aspx>). Hence supply is restricted one way or other. Perhaps ironically, you have ignored this factor.

2- You have started your arguments against quantity control regime based on market study of Office of Fair Trading 2003. This study was criticised by Transport select committee in 2004 on the basis that it lacked evidence to support its recommendations and it is very outdated in current economic situation. (<http://www.oecd.org/unitedkingdom/unitedkingdom-economicforecastssummarymay2012.htm?>)

3- You have criticised the unmet demand survey, as it is a bureaucratic process and public interest is ignored. It is completely opposite, as final decision is taken by publically elected councillors who have to attend area meetings every month and also have to go back in their wards after every two to four years for re-election. If general public were having problem due to lack of transport (taxis), it will be local politicians who would respond instead to bureaucrats in department of Transport. In fact in my City, people's outcry is too many buses and taxis.

Yet commission has propose that these bureaucrats should be given more powers to regulate others aspect of trade; fare, vehicle safety standard, drivers standard.

4- As you have stated that in March 2010 Department for Transport has issued new best practice guidance reaffirming its stance against quantity restrictions. Local Authorities have to conduct surveys to justify the quantity controls.

5-Financing the surveys conducted by third parties has never been an issue.

6- The Office of Fair Trading have expressed concerns at 9.18. When Wolverhampton Taxis were deregulated, number of Taxis increased 100% and drivers waiting time increased even at peak time (weekend nights) but still license holders are complaining that unlicensed private hire from neighbouring towns are operating illegally. Answer to this is **enforcement** not increase in supply. May be I should also mention that peak time public try to flag down ambulance and RAC/AA vans instead of Taxis.

Key arguments against quantity controls

The Office of Fair Trading's 2003 market study

1-fewer taxis per head of population;

This is fiddling with statistics. We can only compare demand with supply. Taxi is resources which drivers imply to earn the living and it will be according to demand. Population takes buses, Bikes, cars, Car share schemes, trains and some prefer to walk.

2- Waiting time can be identified in surveys. Councils have powers to issue new licenses accordingly and councils have done that when it was necessary. (Oxford city council 2001 and 2005)

3- You have stated the deregulation in Bristol where Taxi licenses were increased by 150% and new license were issued to Private hire drivers as there was minor increase in overall (4%). I could not realise public benefit in this. Private Hire whose fare start with Zero and now their fare on Taxi on average, will start from £2.50. Private hire are charging minimum fare between £2.50 £4.0 for 1st mile, while 1st mile on taxi meter will be £5.80. I see clearly that deregulation has taken away consumer choice. (Taxi or Private hire)

QUANTITY deregulation in some UK cities

In many UK cities Councils have reintroduce limits (for example Reading, Sheffield, Coventry, Cardiff, Wirra l). The decision has been taken on the grounds of Congestion, environmental considerations, over ranking, decreased off peak provision, poor standards of vehicles and lower standard of service as the drivers were working longer hours in less safer Taxis

As per fare char (attached), public in deregulated cities are not better(fare wise) than public in regulated cities.

QUANTITY RESTRICTIONS IN OTHER COUNTRIES

It is your conclusion that deregulation in Netherland was not success. This has led to the Authorities resorting to measures such as parking and road traffic regulation to control the behaviour of taxi drivers.

De-restriction in Ireland.

Irish deregulation brought havoc and overcrowding in cities when taxi increased from 3,913 to 20,000. Overcrowding of Taxis by 500% (from 3913 to 20000) and due to other problems Authority has also imposed a temporary suspension on the issuance of non-wheelchair accessible taxi and pre-booked only vehicle licenses in order to even-out numbers.

Question 55

We are helping to create a free, fair and responsible Big Society by putting power in the hands of citizens, neighborhoods and councils .(<http://services.parliament.uk/bills/2010-11/localism.html>)

Current Government has slogan of localism. Local problems have local solution .Some of our towns and cities were built in Victorian times and are congested with narrow streets and roads. These roads are unable to take influx of traffic. Here in my city of Oxford, when the bus industry was deregulated it started so called the Bus war and even the Bus users ere fade up with this. This is common complain “too many buses and Taxis”.

1-Congestion and environmental problems.

Higher pollution level and air quality is one problem in Oxford City.

(http://www.oxfordmail.co.uk/news/yourtown/oxford/8112939.Oxford_wide_action_plan_aims_to_cut_pollution/)

2-Over-Ranking

Here in Oxford apart from Bus station, we have only one Taxi rank on High street with two spaces .Now even with innovative approach council need space which we do not have in this ancient city.

3- Tourist City

Due to historical importance, tourist arrives year round from all over the world. Thanks to rational approach (issuing new licences subject to unmet demand) by local authority. Drivers are not chasing and harassing these foreigners. Just imagine a Japanese academic or Russian Tourist who arrives first time in the city and two desperate drivers are after him. One will grab his trunk and other after his rucksack. It sound funny but we all have seen this on our holiday and may be have personal experience as well.

3-Black cabs a British icon.

As you have proposed deregulation and other form of vehicles for Taxis should be allowed. If this is implemented, certainly drivers will by cheaper vehicles instead of traditional Black cab which is costing £30,000.00. During ranking and even while parked on traffic lights, we have to let tourist in to take picture with black cab.

We have two licensed cabs other than traditional LTI make and no tourist is willing to hire these cabs.

4-Decrease off peak provision

5-Unstability in trade

A study by the European Conference of Ministers of Transport (ECMT) in 2007 for the liberalization of taxi trade. Among the conclusion of the 2007 meeting was the following statement: “Where massive entry occurred after entry deregulation, a decrease in service quality was generally observed. This has led to re-regulation in the form of stricter standards for service quality. There would seem to be a danger of regulatory capture, insofar as the regulation of quality has, in some countries, been tantamount to a restoration of entry regulation.”

QUESTION NO 56

This is totally insane .It is like asking disable people that we do not need to provide you access to every shop in City but few shops in the city will have disable access and those shops will cater your need .This against concept of equality .

Now every cab is wheelchair accessible and in propose regime they will wait longer for special cab.

REGULATED IN YELLOW / RE- REGULATED IN BLUE / JUST DE-REG IN PINK

1	Aylesbury Vale	
2	Barnsley	
3	Barrow-in-Furness	
4	Basingstoke & Deane	
5	Bath & NE Somerset	
6	Bedford	
7	Birmingham	Re Reg for 12 months starting 2011
8	Blackburn	
9	Blackpool UA	
10	Bolton	
11	Bournemouth UA	
12	Bradford	
13	Braintree	
14	Brighton and Hove UA	
15	Calderdale	
16	Cardiff (Re- Reg 2010)	
17	Carrick	
18	Chesterfield (Re-Reg 2011)	
19	Chorley	
20	Colchester	
21	Congleton	Under review Jan 2012
22	Corby	
23	Coventry (Re - Reg 2011)	
24	Crawley	
25	Dover	
26	Ellesmere Port	
27	Epping Forest	
28	Exeter	
29	Halton UA	
30	Harrogate	
31	Hastings	
32	Havant	
33	High Peak	
34	Hyndburn	
35	Kingston-upon-Hull	
36	Kirklees	
37	Knowsley	
38	Lancaster	
39	Leeds	
40	Leicester	
41	Lincoln	
42	Liverpool	
43	Maidstone	
44	Middlesbrough	Impose limit on number of all saloon cars - NO LIMIT on WAV's *
45	Mid Sussex	CONFIRMED STILL REGULATED
46	Newcastle-under-Lyme	
47	Newcastle-upon-Tyne	
48	North East Lincolnshire	CONFIRMED STILL REGULATED
49	North Tyneside	CONFIRMED STILL REGULATED
50	Nottingham	
51	Oadby & Wigston	
52	Oldham *	
53	Oxford	
54	Pendle	
55	Penwith	
56	Plymouth	
57	Poole UA	
58	Portsmouth UA	
59	Preston	
60	Restormel	
61	Ribble Valley	
62	Richmondshire De-Reg 1/4/ 2012	
63	Rochdale	
64	Rotherham	
65	Rugby	
66	Scarborough	
67	Sefton	
68	Sheffield	
69	South Tyneside	
70	Southampton UA	
71	Southend-on-Sea UA	
72	St Helens	
73	Stevenage	
74	Stockport	
75	Sunderland	
76	Tameside	
77	Test Valley	
78	Thanet	
79	Thurrock UA	
80	Torbay	
81	Torfaen	
82	Torrige	
83	Trafford	
84	Tunbridge Wells	
85	Wakefield	
86	Wansbeck	
87	Warrington UA	
88	Weymouth & Portland	
89	Wigan	
90	Windsor and Maidenhead	
91	Wyre	
92	York	

Adur
Allerdale
Alnwick
Amber Valley
Arun
Ashfield
Ashford
Babergh
Basildon
Bassetlaw
Bedford
Berwick Upon Tweed*
Blaby
Blaenau Gwent
Blyth Valley
Bolsover
Boston
Bournemouth UA
Bracknell Forest
Braintree
Breckland
Brentwood
Bridgend
Bridgnorth (now Shropshire)
Bristol
Broadland
Bromsgrove
Broxbourne
Broxtowe
Burnley
Bury
Caerphilly
Calderdale
Cambridge
Cannock Chase
Canterbury
Caradon
Carlisle
Carmarthen
Carrick
Castle Morpeth
Castle Point
Central Beds
Ceredigion
Charnwood
Chelmsford
Cheltenham
Cherwell
Chester
Chester-le-Street
Chichester
Chiltern
Chorley
Christchurch
Colchester
Congleton
Conwy
Copeland
Cotswold
Craven
Crewe & Nantwich
Dacorum
Darlington
Dartford
Daventry
Denbighshire
Derwentside
Doncaster
Dudley
Durham
Easington
East Cambridge
East Devon
East Dorset
East Hampshire
East Hertfordshire
East Lindsey
East Northants
East Riding
East Staffordshire
Eastbourne
Eastleigh
Eden
Elmbridge
Epsom & Ewell
Erewash
Fareham
Fenland
Flintshire
Forest Heath
Forest of Dean
Fylde
Gateshead
Gedling
Gloucester
Gosport
Gravesham
Great Yarmouth
Gwynedd
Halton UA
Hambleton
Harborough
Hart
Hartlepool
Herefordshire
Hertsmere

Hinckley & Bosworth
Horsham
Huntingdonshire
Ipswich
Isle of Wight
Kennet
Kerrier
Kettering
King's Lynn / W Norfolk
Lewes
Lichfield
London
Luton
Macclesfield
Maldon
Malvern Hills
Manchester
Mansfield
Medway
Melton
Mendip
Merthyr Tydfil
Mid Devon
Mid Suffolk
Middlesbrough
Milton Keynes
Mole Valley
Monmouthshire
Neath & Port Talbot
New Forest
Newark & Sherwood
Newport
North Cornwall
North Devon
North Dorset
North East Derbyshire
North Hertfordshire
North Kesteven
North Lincolnshire
North Norfolk
North Shropshire -Now Shropshire
North Somerset
North Warwickshire
North West Leicester
North Wiltshire
Northampton
Northampton
Nuneaton & Bedworth
Oswestry (now Shropshire)
Pembroke
Peterborough
Powys
Purbeck
Reading
Redcar & Cleveland
Redditch
Reigate & Banstead
Rhondda-Cynon-Taf
Rochford
Rosendale
Rother
Runnymede
Rushcliffe
Rushmoor
Rutland
Ryedale
Salford
Salisbury
Sandwell
Sedgefield
Sedgemoor
Selby
Sevenoaks
Shepway
Shrewsbury & Atcham (Shropshire)
SHROPSHIRE
Slough
Solihull
South Buckingham
South Cambridgeshire
South Derbyshire
South Gloucester
South Hams
South Holland
South Kesteven
South Lakeland
South Norfolk
South Northants
South Oxfordshire
South Ribble
South Shropshire Now Shropshire
South Somerset
South Staffordshire
Spelthorne
St Albans
St Edmundsbury
Stafford
Staffordshire Moorlands
Stockton - on-Tees
Stoke on Trent
Stratford on Avon
Stroud
Suffolk Coastal
Surrey Heath*
Swale
Swansea

Application to Re-Reg refused Nov 2011

Swindon
Tamworth
Tandridge
Taunton Deane
Teesdale
Teignbridge
Tendring
Tewkesbury
ThreeRivers
Tonbridge & Malling
Tynedale
Uttlesford
Vale of Glamorgan
Vale of White Horse
Vale Royal
Walsall
Warwick
Watford
Waveney
Waverley
Wealden
Wear Valley
Wellingborough
Welwyn Hatfield
West Berkshire
West Devon
West Dorset
West Lancs
West Lindsey
West Oxfordshire
West Somerset
West Wiltshire
Winchester
Wirral
Woking
Wokingham
Wolverhampton
Worcester
Worthing
Wrexham
Wychavon
Wycombe
Wyre Forest
Ynys Mon(Anglesey)

	TARIFF ONE					
	FLAG	1 MILE	2 MILES	5 MILES	10 MILES	
1	COUNCIL					
2	COLCHESTER	£2.60	£4.70	£6.80	£10.70	£17.30
3	TUNBRIDGE WELLS	£4.00	£4.00	£6.60	£14.40	£27.40
4	BATH & N.E.SOMERSET	£2.60	£4.40	£6.40	£12.40	£24.80
5	MID SUSSEX	£2.80	£4.40	£6.40	£12.40	£22.40
6	HARROGATE	£3.10	£4.50	£6.30	£11.50	£20.30
7	BRIGHTON & HOVE	£2.60	£4.00	£6.20	£12.80	£23.80
8	CARRICK	£2.80	£3.40	£6.20	£13.30	£25.00
9	LINCOLN	£3.00	£4.60	£6.20	£11.00	£19.00
10	WEYMOUTH & PORTLAND	£2.40	£4.40	£6.20	£11.60	£20.60
11	DOVER	£3.30	£4.35	£6.00	£10.50	£18.00
12	EXETER	£2.20	£4.00	£6.00	£12.00	£22.00
13	LEEDS	£2.20	£4.00	£6.00	£10.00	£17.40
14	MAIDSTONE	£2.80	£4.00	£6.00	£12.00	£22.00
15	SOUTHEND-ON-SEA	£2.80	£4.20	£6.00	£12.20	£23.60
16	STEVENAGE	£3.00	£4.00	£6.00	£12.00	£22.00
17	HIGH PEAK	£2.80	£3.32	£5.92	£13.72	£26.72
18	BOURNEMOUTH	£2.70	£3.90	£5.90	£11.70	£21.70
19	POOLE	£2.30	£3.90	£5.90	£11.70	£21.70
20	YORK	£2.50	£4.20	£5.90	£11.30	£19.20
21	BIRMINGHAM	£2.00	£4.00	£5.80	£10.80	£19.40
22	BLACKPOOL	£2.60	£4.00	£5.80	£10.80	£19.40
23	CRAWLEY	£3.60	£3.80	£5.80	£12.20	£22.60
24	RESTORMEL	£2.80	£3.80	£5.80	£11.80	£21.80
25	SOUTHAMPTON	£2.40	£4.20	£5.80	£10.20	£17.80
26	TORBAY	£2.50	£4.00	£5.80	£11.50	£20.80
27	HASTINGS	£2.80	£4.20	£5.70	£10.20	£17.70
28	PENWITH	£2.60	£3.70	£5.70	£11.70	£21.70
29	PLYMOUTH	£3.30	£4.20	£5.70	£9.60	£16.20
30	OXFORD	£2.45	£4.45	£5.65	£9.55	£15.95
31	BASINGSTOKE & DEANE	£3.00	£4.20	£5.60	£9.80	£19.80
32	NEWCASTLE UPON TYNE	£2.40	£4.00	£5.60	£10.60	£19.00
33	NOTTINGHAM	£2.00	£3.80	£5.60	£11.00	£20.40
34	PORTSMOUTH UA	£2.20	£3.80	£5.60	£10.80	£21.60
35	SHEFFIELD	£2.60	£4.10	£5.60	£10.10	£17.90
36	STOCKPORT	£2.00	£3.20	£5.60	£12.40	£24.00
37	WYRE	£2.60	£3.80	£5.60	£10.60	£19.00
38	LEICESTER	£2.50	£4.00	£5.50	£10.00	£17.50
39	TORRIDGE	£2.90	£3.50	£5.50	£11.50	£21.50
40	BRAINTREE	£2.80	£3.80	£5.40	£10.10	£18.10
41	CARDIFF	£2.00	£3.80	£5.40	£10.60	£19.00
42	COVENTRY	£2.80	£3.40	£5.40	£11.40	£21.20
43	HAVANT	£2.40	£3.80	£5.40	£10.00	£17.60
44	RUGBY	£2.30	£3.60	£5.40	£10.70	£19.60
45	SCARBOROUGH	£3.40	£4.40	£5.40	£8.40	£14.40
46	BRADFORD	£2.00	£3.60	£5.30	£10.20	£18.50
47	NORTH EAST LINCOLNSHIRE	£2.00	£3.80	£5.30	£9.80	£17.30
48	RIBBLE VALLEY	£3.30	£3.30	£5.30	£11.30	£21.30
49	THURROCK	£2.30	£3.70	£5.30	£10.10	£20.90
	WINDSOR & MAIDENHEAD	£2.73	£3.57	£5.25	£10.29	£18.69

50	BOLTON	£2.00	£3.40	£5.20	£10.80	£20.00
51	ELLESMERE PORT	£2.20	£3.60	£5.20	£9.80	£17.60
52	OLDHAM	£1.60	£3.25	£5.20	£11.35	£21.40
53	TRAFFORD	£2.00	£3.20	£5.20	£11.40	£21.60
54	RICHMONDSHIRE	£2.40	£3.30	£5.10	£10.50	£19.32
55	WIGAN	£1.80	£3.20	£5.10	£10.50	£19.60
56	LIVERPOOL	£2.20	£3.60	£5.00	£9.60	£15.40
57	SUNDERLAND	£2.40	£3.60	£5.00	£9.00	£15.60
58	TAMESIDE	£2.00	£3.20	£5.00	£10.20	£19.00
59	TEST VALLEY	£3.40	£3.40	£5.00	£9.80	£17.80
60	THANET	£3.00	£3.80	£5.00	£9.20	£16.20
61	CHORLEY	£2.30	£3.18	£4.94	£10.22	£19.02
62	CALDERDALE	£1.90	£3.00	£4.90	£10.60	£20.00
63	CONGLETON	£2.90	£2.90	£4.90	£10.90	£20.90
64	HALTON	£2.10	£3.30	£4.90	£9.30	£16.90
65	KINGSTON-UPON-HULL	£2.20	£3.50	£4.90	£8.90	£15.70
66	WANSBECK	£1.90	£3.20	£4.90	£10.10	£18.70
67	BEDFORD	£3.20	£3.20	£4.80	£9.60	£17.60
68	LANCASTER	£2.40	£3.20	£4.80	£9.60	£17.60
69	NORTH TYNESIDE	£1.60	£3.20	£4.80	£10.00	£18.40
70	PRESTON	£2.00	£3.10	£4.80	£9.90	£18.40
71	ROCHDALE	£1.80	£3.00	£4.80	£10.40	£19.60
72	ROTHERHAM	£2.50	£3.60	£4.80	£8.40	£14.40
73	TORFAEN	£3.50	£3.50	£4.80	£8.60	£14.90
74	BARNSELY	£3.10	£3.10	£4.70	£9.50	£17.50
75	BLACKBURN	£2.30	£3.10	£4.70	£9.50	£17.50
76	HYNDBURN	£2.50	£3.40	£4.70	£8.50	£14.80
77	WARRINGTON	£2.30	£3.10	£4.70	£9.50	£17.20
78	CHESTERFIELD	£2.25	£3.15	£4.65	£9.15	£16.65
79	BARROW IN FURNESS	£2.00	£2.80	£4.60	£10.00	£19.00
80	SEFTON	£1.60	£3.20	£4.60	£9.00	£16.60
81	WAKEFIELD	£2.00	£3.10	£4.60	£9.10	£16.60
82	CORBY	£1.80	£2.90	£4.40	£8.80	£16.20
83	KIRKLEES	£2.00	£3.00	£4.40	£8.60	£15.50
84	KNOWSLEY	£2.00	£3.20	£4.40	£8.80	£17.00
85	OADBY & WIGSTON	£3.00	£3.00	£4.40	£8.60	£15.60
86	PENDLE	£3.00	£3.00	£4.40	£8.60	£15.60
87	SOUTH TYNESIDE	£2.00	£3.00	£4.40	£9.00	£16.40
88	ST. HELENS	£1.40	£2.80	£4.40	£9.20	£17.20
89	AYLESBURY VALE	£3.00	£3.00	£4.30	£8.20	£16.20
90	MIDDLESBROUGH	£2.80	£2.80	£4.30	£8.80	£16.30
91	NEWCASTLE-U-LYME	£2.20	£2.90	£4.20	£8.00	£14.30
	Average fares Regulated Councils	£2.49	£3.60	£5.31	£10.38	£18.98
	Average fares without Scotland and without regulated areas	£2.70	£3.63	£5.45	£10.96	£20.11
	Full National Averages including Scotland and Regulated areas	£2.64	£3.60	£5.37	£10.73	£19.68

92 **Epping Forest**
Do not set fares or have ranks!

RUNNING MILE	TARIFF TWO					RUNNING MILE	EXTRA for NIGHTS	START DATE
	FLAG	1 MILE	2 MILES	5 MILES	10 MILES			
£1.30	£3.40	£5.80	£8.80	£14.20	£22.90	£1.73	33.08%	Nov-11
£2.60	£6.00	£6.00	£9.90	£21.60	£41.10	£3.90	50%	Jan-11
£2.03	£3.60	£5.40	£7.40	£13.40	£25.80	£2.03	£1	Dec-11
£2.00	£4.20	£6.60	£9.60	£18.60	£33.60	£3.00	50%	Apr-11
£1.75	£4.65	£6.75	£9.45	£17.25	£30.45	£2.63	50%	Apr-11
£2.20	£3.60	£5.00	£7.20	£13.80	£24.80	£2.20	£1	Aug-11
£2.35	£3.80	£4.80	£8.20	£18.20	£35.00	£3.35	42.55%	Jun-11
£1.60	£3.80	£5.90	£8.00	£14.30	£25.10	£2.15	34.00%	Jan-12
£1.80	£2.90	£5.20	£7.30	£13.60	£24.10	£2.10	15.00%	Mar-10
£1.50	£4.95	£6.75	£9.00	£15.75	£27.00	£2.25	50%	Jan-12
£2.00	£2.75	£5.00	£7.50	£15.00	£27.50	£2.50	25%	Nov-08
1.50	£3.00	£4.80	£6.80	£10.80	£18.20	1.50	80p	May-08
£2.00	£4.20	£6.00	£9.00	£18.00	£33.00	£3.00	50%	Dec-10
£2.30	£5.00	£6.00	£7.60	£13.40	£24.40	£2.30	£2.20	Oct-11
£2.00	£4.50	£6.00	£9.00	£18.00	£33.00	£3.00	50%	Apr-11
£2.60	£3.74	£4.46	£8.06	£18.86	£62.86	£3.60	38%	Jun-11
£1.97	£3.60	£5.10	£7.85	£15.60	£28.85	£2.63	33.33%	Apr-11
£1.98	£3.00	£5.00	£7.75	£15.75	£28.75	£2.63	32.83%	Apr-11
£1.79	£3.30	£5.00	£6.80	£12.20	£21.10	£1.79	80p	Apr-11
£1.70	£2.40	£4.80	£6.80	£13.00	£23.20	£2.04	20%	Jun-09
£1.72	£2.60	£4.60	£6.80	£13.60	£25.00	£2.27	36.02%	Jul-11
£2.10	£4.50	£4.80	£7.80	£16.80	£31.80	£3.00	42.33%	Jan-12
£2.00	£4.20	£8.70	£8.70	£17.70	£32.70	£3.00	50%	Jul-08
£1.66	£3.20	£5.45	£7.45	£12.95	£22.45	£2.08	25.3%	Dec-10
£1.87	£3.00	£5.00	£7.40	£15.00	£27.40	£2.50	33.33%	Sep-11
£1.49	£3.40	£5.40	£7.60	£13.80	£24.20	£2.10	40.48%	Apr-11
£2.00	£3.00	£4.65	£7.65	£16.65	£31.65	£3.00	50%	Apr-11
£1.32	£4.00	£5.20	£6.70	£10.60	£17.20	£1.32	£1	Nov-11
£1.29	£2.50	£5.50	£7.30	£11.00	£17.10	£1.24	3.86%less	Jan-11
£1.40	£3.90	£5.70	£7.80	£14.10	£29.10	£2.10	50%	Jan-11
£1.67	£2.40	£4.20	£6.20	£12.00	£21.60	£1.93	15.93%	Sep-08
£1.80	£2.00	£4.00	£6.00	£11.80	£22.00	£1.95	8.33%	Dec-11
£1.76	£2.60	£4.00	£5.60	£11.20	£21.60	£1.87	6.25%	Dec-10
£1.53	£3.10	£4.60	£6.10	£10.60	£18.40	£1.53	50p	Nov-10
£2.32	£2.60	£4.20	£7.20	£16.60	£32.00	£3.09	33%	Apr-11
£1.68	£2.70	£4.50	£6.70	£13.30	£24.30	£2.20	31.25%	Apr-11
£1.50	£3.00	£4.70	£6.50	£11.90	£20.90	£1.80	20%	Jan-11
£2.00	£4.35	£5.25	£8.25	£17.25	£32.25	£3.00	50%	Apr-10
£1.59	£4.20	£5.70	£8.10	£15.15	£27.15	£2.38	50%	Jan-11
£1.70	£3.00	£4.80	£6.40	£11.60	£20.00	£1.70	£1	Sep-11
£1.98	£3.60	£4.20	£6.20	£12.20	£22.00	£1.98	80p	Sep-08
£1.53	£3.60	£5.70	£8.10	£15.00	£26.40	£2.29	50%	Sep-08
£1.78	£2.80	£4.10	£5.90	£11.20	£20.10	£1.78	50p	Feb-09
£1.20	£3.60	£4.80	£6.00	£9.60	£16.60	£1.40	16.66%	May-11
£1.66	£2.00	£3.80	£5.60	£11.20	£20.40	£1.85	11.45%	Jan-09
£1.50	£2.20	£4.40	£6.30	£12.10	£21.60	£1.90	26.66%	Sep-11
£2.00	£4.65	£4.65	£7.65	£16.65	£31.65	£3.00	50.00%	Oct-08
£1.63	£3.30	£5.40	£7.80	£15.00	£29.70	£2.45	50%	Aug-08
£1.68	£4.09	£5.33	£7.81	£152.25	£27.96	£2.52	50%	Nov-11

£1.85	£2.60	£3.80	£6.00	£13.00	£24.80	£2.35	27.02%	Sep-08
£1.56	£2.75	£4.50	£6.50	£12.25	£22.00	£1.95	25%	Apr-11
£2.02	£1.60	£3.70	£6.10	£13.60	£25.90	£2.46	21.78%	Apr-11
£2.06	£2.65	£4.25	£6.85	£15.05	£28.85	£2.74	33%	Dec-11
£1.78	£3.20	£4.40	£6.80	£14.00	£25.76	£2.37	33%	Oct-11
£1.81	£2.25	£4.05	£6.25	£13.05	£24.35	£2.26	24.36%	Mar-11
£1.52	£2.75	£4.50	£6.25	£12.00	£19.26	£1.90	25%	Nov-11
£1.33	£2.80	£4.40	£6.20	£11.40	£20.00	£1.72	29.27%	Dec-10
£1.76	£2.70	£4.30	£6.50	£13.10	£24.10	£2.20	25%	Jul-11
£1.60	£5.10	£5.10	£7.50	£14.70	£26.70	£2.40	50%	Mar-11
£1.28	£4.00	£5.50	£7.00	£13.00	£22.60	£1.76	37.5%	Apr-07
£1.76	£3.45	£4.89	£7.45	£15.45	£28.57	£2.64	50%	Jun-11
£1.89	£2.00	£3.50	£5.60	£12.10	£22.80	£2.15	13.33%	Feb-11
£2.00	£4.35	£4.35	£7.35	£16.35	£31.35	£3.00	50%	Jun-11
£1.50	£2.80	£4.40	£6.40	£12.40	£22.40	£2.00	33.33%	Aug-10
£1.35	£2.20	£3.90	£5.70	£10.90	£19.70	£1.76	30.37%	Aug-11
£1.73	£2.40	£4.00	£6.20	£12.80	£23.80	£2.20	27.17%	Sep-08
£1.60	£4.20	£4.20	£5.80	£10.60	£18.60	£1.60	£1	May-08
£1.60	£3.60	£4.80	£7.20	£14.40	£26.40	£2.40	50%	Jun-11
£1.70	£2.40	£4.20	£6.00	£11.80	£21.20	£1.90	25%	Dec-09
£1.69	£2.70	£4.10	£6.10	£12.50	£23.30	£2.13	26.06%	Dec-10
£1.85	£2.25	£3.75	£6.00	£13.00	£24.50	£2.32	25%	Jun-11
£1.20	£2.50	£3.80	£5.20	£9.40	£16.40	£1.40	14.28%	Dec-07
£1.26	£4.20	£4.20	£5.85	£10.65	£18.60	£1.60	26.98%	Sep-08
£1.60	£3.80	£3.80	£5.40	£10.20	£18.20	£1.60	80p	Nov-10
£1.60	£2.40	£3.50	£5.30	£10.70	£19.70	£1.80	12.50%	Sep-11
£1.26	£3.00	£3.90	£5.20	£9.00	£15.30	£1.26	50p	May-08
£1.80	£2.80	£4.00	£6.40	£13.60	£30.40	£2.40	50%	Nov-09
£1.50	£3.00	£4.20	£6.20	£12.20	£22.20	£2.00	33.33%	Jul-08
£1.80	£3.00	£4.20	£6.90	£15.00	£28.50	£2.70	50%	Apr-08
£1.46	£2.00	£3.75	£5.50	£10.50	£19.00	£1.83	25.00%	Nov-11
£1.50	£2.00	£3.60	£5.30	£10.40	£18.90	£1.70	13.33%	Dec-11
£1.48	£2.70	£4.35	£6.60	£13.20	£24.30	£2.22	50%	Aug-11
£1.40	£2.50	£3.70	£5.50	£10.90	£19.90	£1.80	28.57%	Oct-06
£1.61	£2.25	£3.75	£5.25	£10.75	£21.00	£2.01	24.84%	Oct-11
£1.40	£4.00	£4.00	£6.22	£11.77	£21.02	£1.86	33.00%	Sep-07
£1.40	£3.50	£3.50	£5.00	£9.50	£17.00	£1.50	7.14%	Jan-08
£1.49	£2.20	£3.80	£5.60	£10.60	£19.20	£1.71	14.77%	Nov-07
£1.61	£1.50	£3.30	£5.40	£11.90	£22.60	£2.15	33.33%	Mar-11
£1.30	£3.75	£3.75	£5.45	£10.35	£20.25	£1.65	25%	Jul-10
£1.50	£2.80	£2.80	£4.30	£8.80	£16.30	£1.50	NIL	Oct-11
£1.26	£3.00	£4.05	£5.70	£10.65	£18.90	£1.65	30.95%	Aug-08
£1.70	£3.21	£4.66	£6.81	£14.81	£24.24	£2.18		
£1.82	£3.64	£4.88	£7.36	£14.62	£26.92	£2.45		
£1.78	£3.50	£4.76	£7.10	£14.02	£25.80	£2.33		

	TARIFF ONE					
	FLAG	1 MILE	2 MILES	5 MILES	10 MILES	
1	COUNCIL					
	LUTON (AIRPORT)	£4.00	£5.30	£7.30	£13.20	£23.00
2	CARADON	£3.20	£4.80	£6.80	£12.80	£22.80
3	ADUR	£2.80	£4.40	£6.60	£13.20	£24.20
4	EPSOM & EWELL	£2.20	£4.20	£6.60	£13.80	£29.80
5	HERTSMERE	£2.20	£4.20	£6.60	£13.40	£29.40
6	LONDON	£2.20	£4.20	£6.60	£13.80	£29.80
7	READING	£2.20	£4.20	£6.60	£14.00	£26.20
8	JERSEY	£2.60	£4.40	£6.50	£12.20	£21.50
9	ARUN	£2.50	£4.20	£6.40	£13.00	£24.00
10	GRAVESHAM	£2.40	£4.20	£6.40	£12.60	£23.20
11	SOUTH GLOUCESTER	£2.40	£4.40	£6.40	£12.40	£22.60
12	STROUD	£2.50	£4.30	£6.40	£12.40	£22.30
13	WATFORD	£2.20	£4.20	£6.40	£13.00	£27.80
14	SEVENOAKS	£3.80	£4.22	£6.32	£12.62	£23.12
15	NORTH HERTS	£3.40	£4.10	£6.30	£12.90	£23.90
16	WOKING	£3.00	£4.50	£6.30	£11.40	£21.60
17	FOREST OF DEAN	£2.22	£3.57	£6.27	£14.37	£27.87
18	CAMBRIDGE	£2.60	£4.40	£6.20	£11.40	£20.20
19	CREWE & NANTWICH	£2.40	£4.20	£6.20	£12.20	£22.20
20	DARTFORD	£2.20	£4.00	£6.20	£12.60	£27.00
21	GUERNSEY	£3.00	£4.40	£6.20	£11.40	£20.40
22	HART	£2.60	£4.00	£6.20	£12.80	£23.80
23	NORWICH	£3.00	£4.60	£6.20	£11.00	£19.20
24	ROTHER	£2.40	£4.20	£6.20	£12.20	£22.20
25	RUNNYMEDE	£3.60	£3.60	£6.20	£12.60	£23.00
26	SOUTH CAMBRIDGE	£2.60	£4.40	£6.20	£11.40	£20.20
27	TAUNTON DEANE	£2.40	£4.00	£6.20	£12.80	£23.80
28	WEST BERKSHIRE	£2.50	£4.20	£6.20	£12.30	£22.60
29	WINCHESTER	£2.80	£4.20	£6.20	£12.40	£22.80
30	KERRIER	£2.78	£3.09	£6.19	£15.49	£30.99
31	CHELMSFORD	£2.90	£4.10	£6.10	£11.90	£21.70
32	EASTLEIGH	£2.80	£4.30	£6.10	£11.50	£20.50
33	ELMBRIDGE	£3.85	£4.30	£6.10	£12.85	£24.10
34	MALVERN HILLS	£3.50	£4.00	£6.10	£12.40	£22.90
35	MOLE VALLEY	£3.90	£3.90	£6.10	£12.10	£22.10
36	SPELTHORNE	£3.60	£3.60	£6.10	£13.60	£26.10
37	SWINDON	£2.90	£4.30	£6.10	£11.30	£21.70
38	VALE OF WHITE HORSE	£3.50	£4.10	£6.10	£12.10	£22.10
39	SOUTH SOMERSET	£3.00	£3.88	£6.08	£12.68	£23.68
40	BRACKNELL FOREST	£3.00	£4.20	£6.00	£11.20	£20.00
41	BRENTWOOD	£2.80	£3.80	£6.00	£12.40	£23.00
42	CANTERBURY	£2.60	£4.20	£6.00	£11.40	£20.40
43	CARMARTHENSHIRE	£2.20	£4.00	£6.00	£12.00	£22.00
44	CASTLE POINT	£2.80	£4.00	£6.00	£12.00	£22.00
45	EAST HAMPSHIRE	£2.80	£4.20	£6.00	£11.40	£20.40
46	KENNET Now Wiltshire (East Zone)	£3.00	£4.00	£6.00	£12.00	£22.00
47	KETTERING	£2.40	£3.60	£6.00	£13.20	£25.20
48	MEDWAY	£3.00	£4.40	£6.00	£10.80	£18.80
49	NORTH WILTSHIRE	£2.60	£4.00	£6.00	£12.00	£22.00

50	SWALE	£2.60	£4.20	£6.00	£11.40	£20.30
51	WEST DORSET	£3.00	£4.00	£6.00	£12.00	£22.00
52	WEST WILTSHIRE	£2.20	£4.00	£6.00	£12.00	£22.00
53	WOKINGHAM	£3.00	£4.00	£6.00	£12.00	£22.00
54	PURBECK	£2.80	£3.43	£5.95	£31.51	£25.51
55	CHRISTCHURCH	£2.70	£3.90	£5.90	£11.70	£21.70
56	COUNTY OF HEREFORD	£2.60	£3.70	£5.90	£12.40	£23.20
57	DUDLEY	£1.50	£4.30	£5.90	£10.70	£18.70
58	THREE RIVERS	£2.70	£3.40	£5.90	£14.70	£29.30
59	TONBRIDGE & MALLING	£2.90	£3.50	£5.90	£12.70	£24.10
60	HARBOROUGH	£3.00	£4.10	£5.86	£11.14	£19.94
61	TEWKESBURY	£2.60	£3.85	£5.86	£11.85	£21.85
62	NORTH DEVON	£2.60	£3.35	£5.85	£13.35	£25.85
63	ASHFORD	£2.60	£3.80	£5.80	£11.41	£20.80
64	BRISTOL, CITY OF UA	£2.60	£4.20	£5.80	£10.60	£18.60
65	CHELTENHAM	£2.40	£4.00	£5.80	£11.20	£20.20
66	CHICHESTER	£3.00	£3.80	£5.80	£11.80	£21.80
67	EAST DEVON	£2.80	£3.80	£5.80	£11.80	£21.80
68	EAST HERTS	£3.00	£3.80	£5.80	£11.40	£20.60
69	MENDIP	£2.60	£3.90	£5.80	£11.50	£21.00
70	NEW FOREST	£2.20	£3.60	£5.80	£12.80	£24.60
71	REIGATE & BANSTEAD	£3.60	£3.60	£5.80	£12.40	£23.20
72	SEDGEMOOR	£2.60	£3.80	£5.80	£11.80	£21.60
73	SLOUGH	£3.00	£5.00	£5.80	£10.40	£23.60
74	SOLIHULL	£2.00	£4.00	£5.80	£10.80	£19.40
75	ST ALBANS	£2.50	£3.60	£5.80	£12.40	£23.40
76	TEIGNBRIDGE	£2.40	£4.00	£5.80	£11.60	£21.00
77	WAVERLEY	£3.00	£3.40	£5.80	£13.00	£25.00
78	NUNEATON & BEDWORTH	£2.95	£3.95	£5.75	£11.15	£19.95
79	EASTBOURNE	£2.60	£4.10	£5.70	£10.50	£20.50
80	LUTON	£3.00	£3.70	£5.70	£11.60	£21.50
81	MID DEVON	£2.30	£3.70	£5.70	£11.90	£22.10
82	MONMOUTHSHIRE	£3.00	£3.90	£5.70	£11.10	£20.10
83	SALISBURY	£2.50	£3.90	£5.70	£11.10	£20.10
84	WELWYN HATFIELD	£2.50	£3.70	£5.70	£11.90	£22.30
85	VALE OF GLAMORGAN	£2.80	£3.75	£5.65	£11.35	£20.85
86	CHARNWOOD	£3.25	£4.27	£5.63	£9.71	£16.51
87	BASILDON	£2.20	£3.80	£5.60	£11.60	£20.60
88	EAST DORSET	£2.40	£3.60	£5.60	£11.20	£20.80
89	EAST LINDSEY	£3.00	£4.00	£5.60	£10.80	£19.20
90	FIFE	£3.00	£3.60	£5.60	£11.20	£20.80
91	GLOUCESTER	£3.00	£3.80	£5.60	£11.00	£19.80
92	GUILDFORD	£3.00	£3.80	£5.60	£11.00	£22.00
93	HARLOW	£2.60	£4.40	£5.60	£9.60	£16.00
94	HINCKLEY & BOSWORTH	£2.60	£3.60	£5.60	£11.60	£21.60
95	IPSWICH	£3.00	£4.00	£5.60	£10.40	£18.40
96	LEWES	£2.80	£3.60	£5.60	£11.60	£21.60
97	NORTH DORSET	£2.40	£3.60	£5.60	£11.20	£20.80
98	NORTHAMPTON	£2.20	£3.80	£5.60	£10.60	£19.00
99	RUSHMOOR	£2.60	£3.40	£5.60	£12.20	£24.20
100	SURREY HEATH	£3.60	£3.60	£5.60	£11.60	£21.60

101	TAMWORTH	£2.40	£3.80	£5.60	£11.00	£20.00
102	UTTLESFORD	£3.20	£3.60	£5.60	£11.60	£21.60
103	WAVENEY	£2.60	£3.20	£5.60	£12.80	£24.80
104	WORTHING	£3.00	£3.80	£5.60	£11.00	£20.00
105	WREXHAM	£3.60	£3.60	£5.60	£11.40	£21.00
106	DURHAM COUNTY COUNCIL	£2.55	£3.85	£5.55	£10.75	£19.35
107	CARLISLE	£2.70	£3.50	£5.50	£11.70	£22.10
108	CHESTER	£2.50	£4.10	£5.50	£9.90	£18.30
109	EAST STAFFORDSHIRE	£2.00	£3.70	£5.50	£11.10	£20.40
110	EDEN	£2.50	£3.00	£5.50	£13.00	£25.50
111	FYLDE	£2.50	£3.90	£5.50	£10.70	£19.10
112	GWYNEDD	£3.00	£3.00	£5.50	£13.00	£25.50
113	HORSHAM	£3.40	£3.70	£5.50	£10.90	£19.80
114	HUNTINGDONSHIRE	£2.70	£4.10	£5.50	£10.10	£17.50
115	MANCHESTER	£2.30	£3.70	£5.50	£10.90	£19.70
116	RUSHCLIFFE	£3.50	£3.50	£5.50	£9.50	£21.50
117	DACORUM	£2.80	£3.68	£5.44	£10.72	£19.52
118	GEDLING	£3.10	£3.36	£5.44	£11.68	£22.08
119	CARDIFF	£2.00	£3.80	£5.40	£10.60	£19.00
120	DERBY	£2.00	£3.90	£5.40	£9.90	£17.40
121	FAREHAM	£2.20	£3.80	£5.40	£10.60	£19.00
122	FOREST HEATH	£2.60	£3.60	£5.40	£10.40	£19.00
123	GOSPORT	£2.20	£3.80	£5.40	£10.60	£19.00
124	GREAT YARMOUTH	£2.00	£3.60	£5.40	£10.60	£19.40
125	ISLE OF WIGHT	£3.00	£3.80	£5.40	£10.20	£18.20
126	MID SUFFOLK	£2.80	£3.80	£5.40	£10.00	£18.00
127	MILTON KEYNES	£2.40	£3.80	£5.40	£10.20	£19.20
128	NEWARK & SHERWOOD	£2.40	£3.60	£5.40	£10.60	£19.40
129	NORTH WARWICKS	£2.20	£3.60	£5.40	£10.80	£19.80
130	PEMBROKE	£3.00	£3.00	£5.40	£12.60	£24.60
131	SELBY	£3.50	£3.90	£5.40	£9.90	£17.40
132	SHEPWAY	£2.80	£3.80	£5.40	£10.20	£18.20
133	SOUTH RIBBLE	£2.00	£3.40	£5.40	£11.40	£21.40
134	STRATFORD ON AVON	£2.20	£3.40	£5.40	£11.40	£21.40
135	SUFFOLK COASTAL	£3.20	£4.00	£5.40	£9.20	£15.80
136	TANDRIDGE	£3.40	£3.40	£5.40	£11.40	£21.40
137	WEST OXFORD	£2.00	£3.60	£5.40	£10.80	£19.80
138	WORCESTER	£3.20	£3.60	£5.40	£10.20	£18.20
139	BROXTOWE	£2.50	£3.38	£5.36	£11.19	£20.87
140	BASSETLAW	£3.60	£3.60	£5.35	£10.60	£19.35
141	BROMSGROVE	£3.50	£3.50	£5.30	£10.70	£19.50
142	BROXBOURNE	£2.90	£3.50	£5.30	£10.60	£19.40
143	BURY ST EDMUNDS	£3.30	£3.70	£5.30	£10.10	£18.10
144	COTSWOLD	£2.80	£3.10	£5.30	£11.90	£22.90
145	CRAVEN	£3.00	£3.80	£5.30	£9.80	£17.30
146	ISLE OF MAN	£2.50	£3.90	£5.30	£10.10	£19.30
147	NORTH SOMERSET	£2.50	£3.90	£5.30	£9.90	£17.70
148	SOUTH HAMS	£2.50	£3.50	£5.30	£10.70	£19.70
149	TENDRING	£2.60	£3.80	£5.30	£9.80	£17.30
150	VALE ROYAL	£2.50	£3.30	£5.25	£10.50	£19.25
151	BLABY	£3.20	£3.80	£5.24	£9.56	£16.76

152	BOSTON	£2.40	£3.60	£5.20	£10.00	£18.00
153	BURY	£1.90	£3.10	£5.20	£11.50	£22.00
154	CHILTERN	£3.00	£3.40	£5.20	£10.60	£19.60
155	DENBIGHSHIRE	£2.10	£3.60	£5.20	£10.00	£18.00
156	HAMBLETON	£3.30	£3.30	£5.20	£10.90	£20.40
157	MACCLESFIELD	£2.70	£3.20	£5.20	£11.20	£21.20
158	NORTH LINCOLNSHIRE	£1.60	£3.40	£5.20	£10.60	£19.60
159	NORTH WEST LEICESTER	£3.60	£3.60	£5.20	£10.00	£18.00
160	POWYS	£3.40	£3.40	£5.20	£10.60	£19.60
161	ROCHFORD	£2.80	£3.80	£5.20	£10.00	£19.80
162	WEST SOMERSET	£2.00	£3.40	£5.20	£10.40	£19.20
163	WOLVERHAMPTON	£3.00	£3.70	£5.20	£9.90	£17.70
164	YNYS MON	£2.80	£2.80	£5.20	£12.40	£24.40
165	BRECKLAND	£3.14	£3.14	£5.14	£10.74	£20.34
166	DARLINGTON	£2.50	£3.70	£5.14	£9.46	£16.66
167	BABERGH	£2.60	£3.70	£5.10	£9.30	£16.30
168	CANNOCK CHASE	£2.50	£3.70	£5.10	£9.50	£16.70
169	MID BEDFORDSHIRE	£3.00	£3.30	£5.10	£10.50	£19.50
170	NEWPORT	£3.00	£3.50	£5.10	£9.80	£17.70
171	RYEDALE	£3.00	£3.40	£5.10	£10.20	£18.70
172	SOUTH BEDFORDSHIRE	£3.00	£3.30	£5.10	£10.50	£19.50
173	SOUTH STAFFORDSHIRE	£3.50	£3.50	£5.10	£9.90	£17.90
174	WALSALL	£2.50	£3.60	£5.10	£9.60	£17.10
175	WYCOMBE	£2.20	£3.60	£5.10	£9.80	£17.50
176	CHERWELL	£2.00	£3.32	£5.08	£10.36	£19.16
177	SALFORD	£2.20	£3.52	£5.06	£9.90	£18.04
178	KINGS LYNN & W. NORFOLK	£3.40	£3.40	£5.05	£10.00	£18.25
179	SOUTH HOLLAND	£2.20	£3.55	£5.05	£9.55	£17.05
180	SWANSEA	£1.80	£3.30	£5.05	£10.30	£19.05
181	DAVENTRY	£1.80	£3.00	£5.00	£11.00	£21.00
182	EAST RIDING	£2.20	£3.60	£5.00	£9.40	£16.80
183	EREWASH	£3.00	£3.00	£5.00	£11.00	£21.00
184	NEATH PORT TALBOT	£2.40	£3.00	£5.00	£11.00	£21.00
185	PETERBOROUGH	£3.30	£3.30	£5.00	£10.10	£16.50
186	SOUTH BUCKINGHAM	£3.00	£3.00	£5.00	£10.25	£19.00
187	SOUTH LAKELAND	£3.00	£3.00	£5.00	£11.00	£21.00
188	SOUTH NORTHANTS	£3.40	£3.40	£5.00	£9.80	£17.80
189	WARWICK	£3.40	£3.40	£5.00	£9.80	£17.80
190	WEST LINDSEY	£2.60	£3.50	£5.00	£9.50	£17.00
191	WIRRAL	£2.80	£3.60	£5.00	£9.00	£15.80
192	WYCHAVON	£3.00	£3.40	£5.00	£10.00	£15.00
193	STOKE ON TRENT UA	£3.00	£3.30	£4.95	£9.90	£18.15
194	BRIDGEND	£2.50	£3.30	£4.90	£9.70	£17.70
195	CASTLE MORPETH	£2.20	£3.50	£4.90	£9.00	£15.90
196	FLINTSHIRE	£3.10	£3.10	£4.90	£9.70	£17.90
197	NORTH KESTEVEN	£2.00	£3.40	£4.90	£9.40	£16.90
198	NORTH NORFOLK	£3.00	£3.20	£4.90	£9.80	£18.10
199	ROSSENDALE	£2.50	£2.90	£4.90	£10.90	£20.90
200	STAFFORD	£2.50	£3.70	£4.90	£8.90	£16.50
201	TELFORD & WREKIN	£2.00	£3.50	£4.90	£9.00	£15.50
202	WELLINGBOROUGH	£2.30	£3.40	£4.90	£9.40	£16.90

203	REDDITCH	£2.78	£3.48	£4.88	£8.98	£15.88
204	ALLERDALE	£2.90	£2.90	£4.85	£10.70	£20.45
205	CEREDIGION	£2.60	£3.35	£4.85	£9.35	£16.85
206	ASHFIELD	£3.00	£3.00	£4.80	£10.20	£19.20
207	CAERPHILLY	£3.00	£3.00	£4.80	£10.20	£19.20
208	CONWY	£2.60	£2.60	£4.80	£11.40	£22.40
209	DERBYSHIRE DALES	£3.00	£3.00	£4.80	£10.20	£19.20
210	DONCASTER	£2.10	£3.30	£4.80	£9.30	£16.80
211	GATESHEAD	£2.00	£3.40	£4.80	£9.00	£16.20
212	LICHFIELD	£3.00	£3.00	£4.80	£10.20	£19.20
213	MANSFIELD	£2.40	£3.30	£4.80	£9.30	£16.80
214	RHONDDA CYNON TAFF	£3.30	£3.30	£4.80	£9.30	£16.80
215	ROTHERHAM	£2.50	£3.60	£4.80	£8.40	£14.40
216	SHROPSHIRE	£3.30	£3.30	£4.80	£9.30	£16.80
217	TYNEDALE	£2.20	£3.20	£4.80	£9.60	£17.80
218	SANDWELL	£3.15	£3.15	£4.75	£9.15	£16.55
219	STAFFS MOORLANDS	£2.20	£3.25	£4.75	£9.40	£17.20
220	EAST AYRSHIRE	£2.75	£2.75	£4.70	£10.40	£19.85
221	EAST CAMBRIDGESHIRE	£3.00	£3.00	£4.70	£9.80	£18.30
222	WEST LANCASHIRE	£2.50	£3.40	£4.70	£8.60	£15.10
223	NORTH EAST DERBYSHIRE	£2.25	£3.15	£4.65	£9.15	£16.65
224	BLYTH VALLEY	£2.00	£3.20	£4.60	£8.80	£15.80
225	COPELAND	£2.80	£2.80	£4.60	£10.00	£19.00
226	MELTON	£2.50	£3.20	£4.60	£8.80	£15.80
227	WYRE FOREST	£2.50	£3.20	£4.60	£8.80	£15.80
228	ALNWICK	£2.25	£3.00	£4.50	£9.00	£16.50
229	BURNLEY	£2.50	£2.90	£4.50	£9.30	£17.30
230	MERTHYR TYDFIL	£3.00	£3.00	£4.50	£9.00	£16.50
231	REDCAR & CLEVELAND	£3.00	£3.00	£4.50	£9.00	£16.50
232	STOCKTON ON TEES	£2.50	£3.20	£4.50	£8.40	£14.80
233	AMBER VALLEY	£2.60	£2.60	£4.40	£9.80	£18.80
234	EAST NORTHANTS	£2.30	£3.00	£4.40	£8.40	£15.20
235	BERWICK ON TWEED	£1.70	£3.00	£4.30	£8.20	£14.70
236	BLAENAU GWENT	£2.80	£2.80	£4.30	£8.80	£16.30
237	FENLAND	£3.31	£3.31	£4.24	£8.89	£16.64
238	HARTLEPOOL	£2.00	£2.80	£3.60	£6.10	£10.30
239	SOUTH KESTIVEN	£1.50	£1.50	£3.30	£8.70	£17.70
240	BOLSOVER	£1.80	£1.80	£2.80	£5.80	£10.80
	Average fares without Scotland and without regulated areas	£2.70	£3.63	£5.45	£10.96	£20.11

RUNNING MILE	TARIFF TWO					RUNNING MILE	EXTRA for NIGHTS	START DATE
	FLAG	1 MILE	2 MILES	5 MILES	10 MILES			
£1.97	£5.00	£6.60	£9.20	£16.70	£29.30	£2.52	28.13%	Oct-11
£2.00	£3.80	£5.80	£8.30	£15.80	£28.30	£2.50	25%	Nov-11
£2.20	£3.80	£5.40	£7.60	£14.20	£25.20	£2.20	£1	Oct-08
£2.40	£2.20	£5.60	£9.20	£20.00	£37.20	£3.60	50%	Apr-11
£2.31	£2.20	£4.80	£7.60	£16.20	£32.40	£2.85	23.38%	Aug-11
£2.40	£2.20	£5.60	£9.20	£20.00	£37.20	£3.60	50.0%	Apr-11
£2.44	£3.20	£5.20	£7.40	£15.00	£28.00	£2.61	6.97%	Oct-11
£1.90	£2.80	£5.20	£8.20	£16.60	£30.70	£2.81	47.87%	Jul-11
£2.20	£3.75	£6.30	£9.60	£19.50	£36.00	£3.30	50%	Apr-11
£2.12	£3.60	£6.30	£9.60	£18.90	£34.80	£3.17	50%	Dec-11
£2.03	£3.65	£5.65	£7.65	£13.65	£23.85	£2.03	£1.25	Oct-10
£2.00	£3.00	£5.10	£7.50	£14.70	£26.40	£2.35	17.33%	Jul-11
£2.20	£2.00	£5.40	£9.00	£19.60	£34.00	£3.54	60.91%	Feb-10
£2.10	£5.60	£6.02	£8.12	£14.42	£24.92	£2.10	£1.80	May-11
£2.20	£5.10	£6.15	£9.45	£19.35	£35.85	£3.30	50.00%	Oct-11
£1.94	£4.00	£6.25	£8.95	£16.60	£31.90	£2.63	35%	Jan-12
£2.70	£2.80	£4.25	£7.15	£15.85	£30.35	£2.90	7.4%	Apr-11
£1.76	£3.60	£5.40	£7.20	£12.40	£21.20	£1.76	£1	Aug-11
£2.00	£2.40	£4.40	£6.60	£13.20	£24.20	£2.20	10.00%	Jun-11
£2.15	£2.20	£4.80	£7.60	£16.20	£31.40	£2.86	33.19%	Nov-09
£1.80	£4.20	£6.00	£8.60	£16.00	£28.60	£2.51	39.44%	Aug-11
£2.20	£3.90	£5.70	£9.00	£18.90	£35.40	£3.30	50%	Nov-11
£1.64	£3.40	£5.00	£7.00	£12.60	£22.00	£1.89	15.59%	Oct-11
£2.00	£3.60	£6.30	£9.30	£18.30	£33.30	£3.00	50%	Apr-11
£2.10	£5.40	£5.40	£9.20	£18.80	£34.40	£3.15	50%	Jun-11
£1.76	£3.60	£5.40	£7.20	£12.40	£21.20	£1.76	£1	Nov-11
£2.20	£3.60	£6.00	£9.30	£19.20	£35.70	£3.30	50%	Nov-10
£2.05	£3.50	£6.05	£9.05	£18.20	£33.65	£3.07	50%	Apr-11
£2.07	£4.20	£6.30	£18.60	£17.40	£34.20	£3.11	50%	Jul-11
£3.10	£5.56	£6.18	£12.38	£30.98	£61.98	£6.20	100%	Jan-11
£1.95	£4.00	£5.60	£8.60	£17.20	£31.60	£2.87	47.32%	Jun-11
£1.80	£3.00	£5.25	£7.75	£15.25	£27.75	£2.50	38.89%	Aug-11
£2.25	£4.95	£5.55	£7.95	£16.95	£31.95	£2.99	33.33%	Jul-11
£2.10	£5.25	£6.00	£9.15	£18.60	£34.35	£3.15	50%	Aug-10
£2.01	£5.85	£5.85	£9.15	£18.15	£33.15	£3.02	50%	May-11
£2.50	£5.40	£5.40	£8.40	£17.40	£32.40	£3.00	50%	Sep-11
£1.75	£3.50	£4.90	£6.70	£11.90	£22.30	£1.75	60p	Sep-08
£2.00	£4.65	£5.55	£8.55	£17.55	£32.55	£3.00	50%	Oct-08
£2.20	£4.50	£5.82	£9.12	£19.02	£35.52	£3.30	50%	Sep-08
£1.76	£4.50	£6.30	£9.00	£16.80	£30.00	£2.64	50%	Jun-11
£2.15	£3.50	£4.70	£7.30	£15.50	£28.90	£2.69	25.19%	Aug-11
£1.80	£3.90	£6.30	£9.00	£17.10	£30.60	£2.70	50%	Oct-08
£2.00	£2.40	£4.65	£7.15	£14.65	£27.15	£2.50	25%	May-11
£2.00	£3.80	£5.00	£6.00	£13.00	£23.00	£2.00	£1.00	Nov-11
£1.80	£4.20	£6.30	£9.00	£17.10	£30.60	£2.70	50%	Jun-11
£2.00	£4.50	£5.70	£8.70	£17.70	£32.70	£3.00	50%	Jul-11
£2.40	£3.60	£5.40	£9.00	£19.80	£37.80	£3.60	50%	Jul-11
£1.60	£4.50	£6.60	£9.00	£16.20	£28.20	£2.40	50%	Dec-11
£2.00	£3.75	£5.50	£8.00	£15.50	£28.00	£2.50	25%	Feb-11

£1.79	£3.90	£6.30	£9.00	£17.10	£30.45	£2.68	50.00%	Oct-11
£2.00	£4.50	£6.00	£9.00	£18.00	£33.00	£3.00	50%	Aug-11
£2.00	£3.30	£6.00	£9.00	£18.00	£33.00	£3.00	50%	Dec-10
£2.00	£4.50	£6.00	£9.00	£18.00	£33.00	£3.00	50%	May-10
£2.52	£3.90	£4.80	£8.40	£19.20	£37.20	£3.60	43%	Jun-11
£1.97	£3.60	£5.10	£7.60	£14.85	£27.35	£2.47	25.00%	Apr-11
£2.16	£3.90	£5.55	£8.85	£18.60	£34.80	£3.24	50%	Nov-11
£1.60	£2.00	£4.80	£6.40	£11.20	£19.20	£1.60	50p	Jul-11
£2.93	£3.20	£3.90	£6.40	£15.20	£29.80	£2.93	50p	Nov-11
£2.27	£4.35	£5.25	£8.85	£19.05	£36.15	£3.41	50%	Mar-11
£1.76	£4.00	£5.70	£8.42	£16.58	£30.18	£2.72	54.55%	Jul-08
£2.00	£3.60	£5.10	£7.50	£14.70	£26.70	£2.40	20%	Jul-11
£2.50	£3.90	£5.04	£8.84	£20.24	£39.24	£3.80	52%	Nov-11
£1.89	£3.90	£5.70	£8.70	£17.10	£31.20	£2.84	50%	Apr-11
£1.61	£3.40	£5.20	£7.00	£12.60	£22.00	£1.88	16.27%	Apr-11
£1.80	£3.00	£5.00	£7.25	£14.00	£25.25	£2.25	25%	Apr-11
£2.00	£3.80	£5.60	£8.40	£14.00	£30.80	£2.80	40%	Mar-11
£2.00	£3.60	£4.80	£7.20	£14.40	£26.40	£2.40	20%	Dec-10
£1.85	£4.00	£5.20	£8.20	£16.60	£30.40	£2.78	50%	Jan-11
£1.90	£3.90	£5.85	£8.70	£17.25	£31.50	£2.85	50%	Aug-08
£2.35	£2.70	£4.80	£8.10	£18.60	£36.30	£3.52	50%	Nov-10
£2.17	£4.50	£4.50	£7.30	£15.50	£28.90	£2.71	24.62%	Dec-11
£1.97	£3.90	£5.70	£8.70	£17.70	£32.40	£2.96	50%	Dec-10
£1.76	£4.80	£6.80	£7.60	£12.20	£23.60	£1.76	£1.80	Jul-10
£1.70	£2.40	£4.80	£6.80	£13.00	£23.20	£2.04	20%	Apr-08
£2.20	£3.75	£5.40	£8.70	£18.60	£35.10	£3.30	50%	Mar-11
£1.90	£3.60	£6.00	£8.70	£17.40	£31.50	£2.80	50%	Apr-11
£2.40	£4.50	£5.10	£8.70	£19.50	£37.50	£3.60	50%	Aug-08
£1.78	£3.95	£5.45	£8.15	£16.25	£29.45	£2.67	50%	May-11
£2.00	£3.00	£4.80	£6.70	£12.40	£23.40	£2.20	10.00%	Jul-09
£1.97	£4.30	£5.50	£8.10	£15.60	£28.30	£2.52	28.13%	Oct-11
£1.96	£3.45	£5.55	£8.55	£17.85	£33.15	£2.93	50%	Nov-10
£1.80	£3.50	£4.55	£6.65	£12.95	£23.45	£2.10	16.67%	Apr-11
£1.80	£3.40	£4.90	£7.30	£14.50	£26.50	£2.40	33.33%	Aug-08
£2.07	£3.75	£5.55	£8.55	£17.85	£33.45	£3.11	50%	Sep-08
£1.90	£3.00	£4.10	£6.30	£12.90	£23.90	£2.20	15.79%	Aug-11
£1.36	£3.75	£5.43	£7.67	£14.39	£25.59	£2.24	64.71%	Aug-10
£1.95	£3.80	£5.40	£7.00	£13.20	£22.20	£1.95	£1.60	Jul-11
£1.90	£3.00	£5.00	£7.50	£15.00	£27.75	£2.54	33.68%	Mar-10
£1.70	£4.50	£6.00	£8.40	£16.20	£28.80	£2.55	50%	Mar-11
£1.90	£3.75	£4.50	£7.00	£14.00	£26.00	£2.38	25%	Oct-11
£1.77	£4.00	£5.00	£7.40	£14.20	£25.60	£2.29	22.70%	May-10
£1.82	£4.00	£5.20	£7.60	£15.10	£29.20	£2.50	37.60%	Oct-10
£1.30	£3.00	£5.00	£6.60	£11.60	£19.80	£1.64	26%	Nov-10
£2.00	£3.90	£5.40	£8.40	£17.40	£32.40	£3.00	50%	May-11
£1.60	£3.80	£5.00	£7.00	£12.60	£22.20	£1.89	18.24%	Dec-10
£2.00	£4.40	£5.20	£7.20	£13.20	£23.20	£2.00	£1.60	Oct-10
£1.90	£3.00	£5.00	£7.50	£15.00	£27.75	£2.54	33.68%	Jun-10
£1.69	£3.40	£5.00	£6.80	£12.00	£20.80	£1.74	2.96%	May-08
£2.20	£3.80	£5.00	£8.30	£18.50	£36.20	£3.30	50%	Sep-11
£2.00	£3.60	£5.10	£8.10	£17.10	£32.10	£3.00	50%	May-08

£1.80	£3.60	£5.70	£8.40	£16.50	£30.00	£2.70	50%	Apr-11
£2.00	£4.80	£5.40	£8.40	£17.40	£32.40	£3.00	50%	Oct-11
£2.40	£3.00	£3.60	£6.60	£15.40	£30.00	£2.93	22.08%	Nov-07
£2.00	£4.00	£4.75	£7.50	£15.75	£29.50	£2.75	37.50%	Jun-10
£1.91	£3.96	£3.96	£6.16	£12.54	£23.10	£2.10	10%	Mar-11
£1.73	£3.15	£4.95	£7.20	£14.40	£26.10	£2.36	36.34%	Sep-11
£2.07	£3.60	£4.60	£7.10	£14.80	£28.30	£2.66	33%	Oct-11
£1.47	£2.80	£4.40	£6.20	£11.00	£20.40	£1.65	12.50%	Apr-11
£1.85	£3.00	£4.70	£6.50	£12.10	£21.40	£1.85	£1	Aug-08
£2.50	£3.50	£4.20	£7.70	£18.20	£35.70	£3.50	40%	Aug-11
£1.69	£2.80	£4.60	£6.80	£13.00	£23.60	£2.11	24.55%	May-11
£2.50	£4.50	£4.50	£8.25	£19.50	£38.25	£3.75	50%	Nov-11
£1.79	£5.10	£5.55	£8.25	£16.35	£29.70	£2.68	50%	Nov-08
£1.50	£2.70	£4.70	£6.70	£12.70	£22.70	£2.00	33%	Nov-11
£1.77	£2.80	£5.00	£7.20	£14.40	£26.20	£2.35	33.16%	Apr-11
£2.00	£3.50	£3.50	£5.50	£9.50	£21.50	£2.00	NIL	May-10
£1.76	£4.20	£5.52	£8.16	£16.08	£29.28	£2.64	50%	Aug-11
£2.09	£3.88	£4.21	£6.81	£14.16	£27.61	£2.62	25%	Apr-11
£1.70	£3.00	£4.80	£6.40	£11.60	£20.00	£1.70	£1	Sep-11
£1.50	£2.50	£4.40	£5.50	£10.80	£18.80	£1.60	6.66%	Sep-08
£1.69	£3.30	£5.70	£8.10	£15.90	£28.50	£2.54	50%	Oct-08
£1.70	£3.10	£4.30	£6.50	£13.30	£24.50	£2.23	31.01%	Dec-11
£1.85	£3.30	£5.70	£8.10	£15.90	£28.50	£2.78	50.00%	Sep-11
£1.76	£2.40	£4.40	£7.00	£14.40	£27.00	£2.51	42.61%	May-08
£1.60	£6.00	£7.60	£10.80	£20.40	£36.40	£3.20	100%	Mar-10
£1.58	£3.40	£4.60	£6.40	£12.20	£21.60	£1.89	19.89%	Nov-11
£1.60	£3.60	£5.00	£6.60	£11.40	£19.20	£1.60	£1.20	Apr-08
1.75*	£3.60	£5.40	£8.10	£15.90	£29.10	£2.63	50%	Oct-08
£1.80	£3.00	£4.95	£7.50	£15.15	£27.90	£2.55	42%	Feb-11
£2.40	£4.10	£4.10	£7.10	£16.10	£31.10	£3.00	25%	Feb-08
£1.50	£3.70	£4.20	£5.90	£11.00	£19.50	£1.70	13.33%	Apr-11
£1.60	£4.20	£5.70	£8.10	£15.30	£27.30	£2.40	50%	Oct-10
£2.00	£2.70	£4.50	£6.90	£14.10	£26.10	£2.40	20%	Sep-11
£2.00	£3.30	£5.10	£7.90	£16.30	£30.30	£2.80	40%	Dec-08
£1.30	£3.70	£4.70	£6.10	£10.70	£18.10	£1.50	15.38%	Nov-08
£2.00	£3.70	£3.70	£6.30	£14.10	£27.10	£2.60	30.00%	Jul-11
£1.80	£3.00	£5.40	£8.10	£16.20	£29.70	£2.70	50%	Sep-07
£1.60	£4.20	£4.80	£7.20	£13.80	£25.20	£2.25	40.63%	Nov-11
£1.95	£3.10	£4.22	£6.60	£14.02	£26.06	£2.43	25%	Nov-10
£1.75	£3.00	£5.10	£7.55	£14.90	£27.15	£2.45	40%	Apr-11
£1.78	£4.50	£4.50	£6.30	£11.70	£20.50	£1.78	£1	Sep-08
£1.77	£4.35	£5.25	£7.95	£15.90	£29.10	£2.65	50%	Nov-11
£1.60	£4.95	£5.55	£7.95	£15.15	£27.15	£2.40	50%	Jun-11
£2.20	£3.20	£3.59	£6.19	£13.99	£26.99	£2.60	18.18%	Oct-08
£1.49	£3.30	£4.30	£6.10	£11.50	£20.50	£1.79	20.13%	May-11
£1.56	£3.30	£5.10	£7.30	£14.10	£27.10	£2.24	43.59%	Apr-11
£1.53	£3.30	£5.05	£6.80	£12.55	£22.30	£1.91	24.84%	Aug-10
£1.81	£3.30	£4.50	£6.90	£13.50	£24.70	£2.24	24.20%	Mar-11
£1.50	£3.90	£5.70	£7.95	£14.70	£25.95	£2.25	50%	Aug-08
£1.75	£3.50	£4.30	£7.00	£14.50	£27.00	£2.50	42.85%	Oct-11
£1.44	£3.50	£4.10	£5.54	£9.86	£17.06	£1.44	30p	Aug-11

£1.60	£3.10	£4.90	£7.10	£13.70	£24.70	£2.20	37.50%	Aug-11
£2.10	£2.30	£3.70	£6.20	£13.70	£26.20	£2.50	19.05%	Jul-08
£1.80	£4.50	£5.10	£7.80	£15.90	£29.40	£2.70	50%	Nov-08
£1.60	£2.30	£4.70	£7.10	£14.30	£26.30	£2.40	50.00%	Oct-10
£1.90	£4.95	£4.95	£7.75	£16.15	£30.15	£2.80	47.37%	Sep-11
£2.00	£4.05	£4.80	£7.80	£16.80	£31.80	£3.00	50%	Jun-11
£1.80	£2.40	£4.60	£6.80	£13.40	£24.40	£2.20	22.22%	Mar-11
£1.60	£4.80	£4.80	£7.11	£13.41	£24.12	£2.13	33%	Apr-11
£1.80	£4.00	£4.00	£6.20	£12.80	£23.80	£2.20	22%	May-11
£2.19	£4.80	£5.80	£7.40	£13.20	£21.80	£2.19	£2.00	Jun-11
£1.76	£3.00	£5.10	£7.80	£15.60	£28.80	£2.64	50%	Jun-07
£1.56	£3.50	£4.20	£5.70	£10.40	£17.30	£1.56	50p	Feb-09
£2.40	£5.60	£5.60	£10.40	£24.80	£48.80	£4.80	100%	Apr-11
£1.89	£4.70	£4.70	£7.70	£16.10	£30.50	£2.84	50%	Sep-11
£1.44	£3.00	£4.50	£6.30	£11.70	£20.70	£1.80	25%	Feb-08
£1.40	£3.90	£5.55	£7.65	£13.95	£24.45	£2.10	50%	Nov-10
£1.45	£3.75	£5.55	£7.65	£14.25	£25.05	£2.18	50%	Jun-11
£1.80	£4.50	£4.95	£7.65	£15.75	£29.25	£2.70	50%	Jun-08
£1.57	£4.00	£4.50	£6.10	£10.80	£18.70	£1.57	£1	Oct-10
£1.70	£3.60	£4.00	£6.00	£12.00	£22.00	£2.00	17.65%	Apr-09
£1.80	£4.50	£4.95	£7.65	£15.75	£29.25	£2.70	50%	Jan-09
£1.60	£4.40	£4.40	£6.40	£12.40	£22.40	£2.00	25%	May-09
£1.50	£3.25	£4.29	£5.85	£11.70	£21.45	£1.95	25%	Aug-08
£1.54	£2.75	£4.45	£6.45	£12.35	£22.05	£1.96	27.27%	Apr-11
£1.76	£2.30	£3.74	£5.66	£11.42	£21.02	£1.92	9.09%	Sep-08
£1.61	£2.30	£3.90	£5.70	£11.50	£20.90	£1.89	17.39%	Jan-09
£1.65	£5.10	£5.10	£7.65	£15.00	£27.45	£2.47	50%	Aug-10
£1.50	£3.20	£5.00	£7.00	£13.00	£23.00	£2.00	33.33%	Oct-08
£1.75	£2.10	£3.90	£6.00	£12.30	£22.80	£2.10	20%	Oct-08
£2.00	£2.20	£4.00	£7.00	£16.00	£31.00	£3.00	50%	Dec-07
£1.48	£2.40	£4.20	£6.20	£12.20	£21.80	£1.95	31.57%	Aug-08
£2.00	£3.40	£3.40	£5.90	£13.40	£25.90	£2.50	25%	Apr-08
£2.00	£3.00	£3.92	£6.22	£13.12	£24.62	£2.30	15%	May-11
£1.70	£3.30	£3.30	£5.00	£10.10	£16.50	£1.70	NIL	Jul-08
£1.75	£4.50	£4.50	£7.25	£15.25	£28.25	£2.63	50%	Aug-10
£2.00	£4.50	£4.50	£7.50	£16.15	£31.50	£3.00	50%	May-10
£1.60	£5.10	£5.10	£7.50	£10.35	£14.70	£2.40	50%	Oct-08
£1.60	£5.10	£5.10	£7.50	£14.70	£26.70	£2.40	50%	Apr-08
£1.50	£3.60	£4.80	£6.80	£12.80	£22.80	£2.00	25%	Apr-11
£1.35	£3.30	£4.10	£5.70	£10.50	£18.70	£1.61	18.75%	Dec-10
£1.60	£4.50	£5.10	£7.50	£15.00	£27.00	£2.40	50%	Mar-08
£1.65	£4.00	£4.40	£6.60	£13.20	£24.20	£2.20	33.33%	Oct-10
£1.60	£3.30	£4.30	£6.30	£12.30	£22.30	£2.00	25%	Aug-11
£1.38	£2.30	£3.90	£5.70	£10.80	£19.50	£1.73	25.49%	Jan-09
£1.63	£3.41	£3.41	£5.39	£10.67	£19.69	£1.79	10%	Sep-08
£1.50	£3.00	£5.10	£7.35	£14.10	£25.35	£1.95	50%	Jun-08
£1.65	£4.50	£4.80	£7.30	£14.70	£27.10	£2.48	50.30%	Feb-11
£2.19	£3.75	£4.35	£7.35	£16.35	£31.35	£3.28	50%	Jul-08
£1.50	£3.75	£5.55	£7.35	£13.35	£24.75	£2.59	50%	Sep-08
£1.40	£3.00	£4.50	£6.30	£11.70	£20.70	£1.80	29%	Aug-11
£1.50	£3.45	£5.10	£7.35	£14.10	£25.35	£2.25	50%	Oct-11

£1.38	£4.03	£4.73	£6.13	£10.23	£17.13	£1.38	£1.25	Apr-11
£1.95	£4.35	£4.35	£7.83	£16.53	£31.03	£2.92	50%	Mar-10
£1.50	£3.00	£4.05	£6.15	£12.45	£22.95	£2.10	40%	Jan-08
£1.80	£4.00	£4.00	£6.20	£12.60	£23.40	£2.15	19.44%	Dec-10
£1.80	£3.50	£3.50	£5.50	£11.50	£21.50	£2.00	11.11%	Aug-10
£2.20	£3.90	£3.90	£7.20	£17.10	£33.60	£3.30	50%	Aug-08
£1.80	£4.50	£4.50	£7.25	£15.50	£29.00	£2.70	50%	Sep-11
£1.50	£2.55	£3.40	£5.10	£10.20	£18.70	£1.70	13.33%	Oct-08
£1.42	£2.50	£4.10	£5.90	£11.30	£20.10	£1.77	24.6%	Mar-11
£1.80	£4.50	£4.50	£7.00	£14.50	£27.00	£2.50	38.89%	Jan-09
£1.50	£3.30	£4.42	£6.50	£12.74	£23.14	£2.08	38.67%	Sep-11
£1.50	£3.70	£3.70	£5.40	£10.50	£19.00	£1.70	13.33%	Dec-08
£1.20	£2.50	£3.80	£5.20	£9.40	£16.40	£1.40	14.28%	Dec-07
£1.50	£4.95	£4.95	£7.45	£14.95	£27.47	£2.50	66.66%	Apr-11
£1.61	£2.60	£3.80	£5.60	£11.20	£20.20	£1.83	13.66%	Aug-08
£1.47	£4.70	£5.00	£7.10	£13.70	£24.80	£2.21	50%	Dec-08
£1.50	£3.10	£4.85	£7.35	£15.10	£28.10	£2.25	50%	Apr-05
£1.89	£3.75	£3.75	£5.70	£11.40	£20.85	£1.89	£1	Dec-10
£1.70	£3.80	£3.80	£5.80	£11.80	£21.80	£2.00	17.65%	Jul-10
£1.30	£3.10	£4.18	£5.74	£10.42	£18.22	£1.56	20%	May-11
£1.50	£3.00	£4.20	£6.20	£12.20	£22.20	£2.00	33.33%	Jul-08
£1.40	£2.40	£3.80	£5.40	£10.40	£18.80	£1.68	20.00%	Aug-08
£1.80	£4.20	£4.20	£6.90	£13.65	£25.65	£2.70	50%	Apr-11
£1.40	£3.00	£4.00	£5.80	£11.30	£20.40	£1.83	30.71%	Dec-08
£1.40	£3.75	£4.80	£6.90	£13.20	£23.70	£2.10	50%	May-08
£1.50	£2.70	£3.60	£5.40	£10.80	£19.80	£1.80	25%	Jun-08
£1.60	£3.00	£3.60	£5.80	£12.40	£23.40	£2.20	37.50%	Jul-08
£1.50	£4.00	£4.00	£6.20	£12.80	£23.80	£2.20	46.67%	Aug-08
£1.50	£3.50	£3.50	£5.30	£10.70	£19.70	£1.80	20%	Oct-11
£1.29	£2.80	£3.85	£5.80	£11.65	£21.25	£1.94	50.38%	Jun-08
£1.80	£3.90	£3.90	£6.60	£14.70	£28.20	£2.70	50%	Sep-06
£1.35	£3.45	£4.50	£6.60	£12.60	£22.80	£2.02	50%	Nov-08
£1.30	£2.20	£3.50	£4.80	£8.70	£15.20	£1.30	50p	Jan-09
£1.50	£3.70	£3.70	£5.70	£11.70	£21.70	£2.00	25%	Apr-11
£1.55	£4.97	£4.97	£6.36	£13.34	£24.96	£2.33	50%	Apr-11
£0.84	£2.00	£3.30	£4.80	£9.20	£16.50	£1.47	75%	Aug-08
£1.80	£2.25	£2.25	£4.95	£13.05	£26.55	£2.70	50%	Nov-08
£1.00	£2.70	£2.70	£4.20	£8.70	£20.80	£1.50	50%	Oct-02
£1.82	£3.64	£4.88	£7.36	£14.62	£26.92	£2.45		

From: Gold Chauffeur Services [REDACTED]

Sent: 10 September 2012 16:50

To: TPH

Subject: Gold Chauffer Services - Taxi and Private Hire Consultation "Weddings and funeral cars would no longer be exempt under primary legislation" clause

Importance: High

Taxi and Private Hire Consultation "Weddings and funeral cars would no longer be exempt under primary legislation" clause

Dear Sir/Madam

This idea seems to have been put forward by someone who knows little or nothing about the Classic and Vintage car industry, and I suspect is part of a larger Hammer to crack an irritating nut that has been plaguing the licensing authorities for many years. I refer of course to unlicensed Limousine companies that seem to use every excuse under the sun not to follow licensing rules, and are now circumnavigating the system by claiming that they are performing weddings when they are clearly not.

Whereas I can understand this move to tighten up the rules and try and reign in those that avoid licensing their vehicles, I am at a loss to see why it is deemed necessary to associate the relatively small number of legitimate Vintage and Classic Wedding Car Hire companies along with them. Apart from this, how on earth could the current requirements for licensing Taxi and Private Hire vehicles be applied to Vintage and Classic cars?

We have had ill informed comments about making vehicle licensing a level playing field, and to some extent I can understand that from administrative point of view, it may seem a tempting proposition to try and implement a system that can be applied across the board. However, we are part of the Wedding industry not Transport Industry, it is very specific, and we have no interest in plying our services in the same way as Taxi and Private Hire companies.

The owners of these beautiful vehicles are not in the business of just making money. It is also for the sheer pleasure of preserving and keeping them for future generations to enjoy. This proposal threatens to stop this

Most Vintage and Classic wedding cars are provided by life style businesses run by enthusiasts, who are proud of their vehicles and offer a valuable and personal service to their customers. The drivers employed to drive the vehicles are often of a mature age, and many are semi or fully retired, often supplementing pension returns that have been slowly diminishing in these hard pressed times, or simply trying to earn extra income to support their families. I find it astonishing that any Government that promotes and encourages enterprise and a good work ethic, should need to consider proposals that would threaten the livelihoods of many, and take away valuable income from those very people that have already made a considerable contribution to the system in Tax and National insurance.

The law was recently changed with regard to the requirement of MOT's for vehicles up to the age of 1972. Whilst any reduction in the costs of keeping and maintaining our vehicles, and the recognition of the responsible attitude of the majority of Vintage and Classic car owners is welcome, it seems that we are getting mixed messages. Most of the owners I know will still have regular MOT type tests performed on their cars, as they wish to ensure that their vehicles are safe, and often these tests can show up possible issues for the future that may need to be addressed. This is a classic example of why the wedding car industry can be trusted to self regulate, as it always has done.

I have not seen a single argument backed up by hard evidence, that would suggest that there is any risk or safety issue to the general public with respect wedding car providers. Whether it be with regard to the maintenance of vehicles or with the drivers themselves. We are not even asking for a separate system, just to be left alone to continue as usual without this illogical tinkering.

There is a saying that "If it's not Broke don't fix it" and in my opinion this could not be more apt with regard to this issue.

I echo the arguments already put forward more eloquently by my colleagues, and urge you to reconsider the proposal to include Wedding and Funeral Cars in the same legislation being considered for the Taxi and Private Hire sector.

This proposal is completely unnecessary, and I hope common sense will prevail!

Kind regards

Stuart Twitchen

GOLD Chauffeur Services

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APPENDIX A

LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

CHAPTER 13 - OVERVIEW OF PROVISIONAL REFORM PROPOSALS

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. *(Page 160)*

Agree – the current 2 tier system covers the requirements of the public, offering the taxi service, available from a rank or can be hailed in the street and the private hire pre booking service providing the consumer with a choice of supplier.

CHAPTER 14 – REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. *(Page 162)*

Agree

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. *(Page 164)*

Agree – Bradford has not seen the use as taxis as 'public hire' vehicles in the context of a 'bus' service. Taxis and private hires should continue to be licensed up to a maximum of 8 passenger seats.

Question 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? *(Page 164)*

No, Councils should have discretion to licence activities relevant to their area, e.g. horses and carriage.

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. *(Page 165)*

Agree – as above there are no taxis or private hire vehicles operating as buses which charge individual fares. The legislation should make a clear distinction between public service vehicles such as the bus and the taxi and private hire trade.

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. *(Page 166)*

Agree – stage coaches are no longer a recognised, this is a long outdated mode of transport.

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. *(Page 167)*

Agree – the issue of licensing novelty vehicles can be complex therefore guidance would be most welcome

Provisional proposal 8

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. *(Page 168)*

Yes, scope needs to be very clear

Question 9

How, if at all, should the regulation of taxis and private hire deal with:

(a) carpooling; and

(b) members clubs? *(Page 170)*

No Response – currently no requirement

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. *(Page 171)*

Yes – this would allow councils to make local exclusions if necessary.

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. *(Page 172)*

Agree – safety related regulation is no less justified in respect of these activities than regular private hire and taxi work. The current exemption “being used in connection with a wedding” is not clear.

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse? *(Page 174)*

No, again, safety related regulation is no less justified drivers and vehicles carrying out contract work and should be subject to the same regulation as other drivers for safety and consistency reasons.

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets". *(Page 175)*

Agree, it is the activity, not the location which is relevant.

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? *(Page 177)*

Yes – although an airport may have a suitable contract with a taxi or private hire provider in place, there should not be a disadvantage to a consumer wishing to engage their own transport and suitable pick up and drop off points should be available.

Provisional proposal 15

The defining feature of taxis, the concept of "plying for hire", should be placed on a statutory footing and include:

- (a) references to ranking and hailing;
- (b) a non-exhaustive list of factors indicating plying for hire; and
- (c) appropriate accommodation of the legitimate activities of private hire vehicles. *(Page 181)*

No Response – insufficient information to form an opinion.

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. *(Page 181)*

Agree – as hailing and ranking are an instant form of booking, not pre booking.

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of "arrangements made in a public place" instead of "plying for hire"?

Disagree – this implies an arrangement can be made directly with the driver which is not appropriate for private hire. Private hire booking should always involve a third party.

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained. *(Page 182)*

Yes – it is felt that a taxi should always take the fare unless there are exceptional reasons

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. *(Page 183)*

Agree – this is the basic requirement of private hire which needs updating to include technological advances.

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.

(Page 184)

Disagree; the vehicle should be used for the sole purpose for which it is licensed. There should be no ambiguity between professional and private requirements.

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements. *(Page 185)*

Agree – Guidance is helpful but where national standards are to be applied, there needs to be consistency in the application of the processes, otherwise the trade may move towards areas that do not apply them as rigorously as their neighbours, the guidance should have some form of power

Provisional proposal 22

Reformed legislation should refer to "taxis" and "private hire vehicles" respectively. References to "hackney carriages" should be abandoned. *(Page 185)*

Agree – taxis is the commonly used expression

Question 23

Should private hire vehicles be able to use terms such as "taxi" or "cab" in advertising provided they are only used in combination with terms like "pre-booked" and did not otherwise lead to customer confusion? *(Page 186)*

No – the public are already confused between the two and allowing the words to be used would compound the problem. The opposite should be mandated.

CHAPTER 15 – A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements. *(Page 188)*

Yes – both should have the same mandated national standard. It is important that licensing authorities retain the ability to apply additional local standards to match local conditions to impose local reasonable standards dependent upon their local needs.

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards. *(Page 189)*

Yes - There is considerable merit in the establishment of a national safety requirement for taxi and private hire services. It is important that licensing authorities retain the ability to apply additional local standards to match local conditions and that there is an ability to impose requirements over and above the national standard for taxis and private hire. Licensing authorities may wish to impose other quality standards, for example in respect of wheelchair accessibility, colours and signage, cctv and specific vehicle requirements.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. *(Page 189)*

As above minimum national standard which should be mandated for both taxi and private hire.

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers. *(Page 190)*

Disagree – as Q 25 and Q 26

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? *(Page 190)*

Agree – windscreen visors and door stickers can provide a locally recognised 'branding' for operators, the public clearly recognise the vehicle and operator they have booked.

Question 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? *(Page 191)*

Location is a key consideration when licensing, busy, inner city drivers may need the added protection of a driver shield.

The cost of some safety options such as CCTV, vehicle tracking systems may out weigh the benefits in some circumstances e.g. very rural areas with extremely low reported crime figures.

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? *(Page 192)*

No – they should be the same, they carry out a comparable function and there can be no reason for there to be different standards.

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety. (Page 192)

Agreed – other conditions should be set locally

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. (Page 193)

Agreed – a full consultation as to the safety standards to be the minimum standard should be undertaken

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? (Page 193)

A working group which includes both technical experts, licensing officers and drivers /proprietors themselves, the group would then advise the panel which should consist of a leader from each group in the working party. It is important to consider the views of the trade as they must operate within the standards on a practical level.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. (Page 193)

Agreed , as stated at proposal 25 , the minimum mandated standards should be the same for taxis and private hire with the autonomy to set local reasonable conditions.

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? (Page 194)

Disagree - there should not be statutory limits imposed upon licensing authorities when setting local taxi standards. Any additional standards for taxis or private hire should be entirely justified.

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? (Page 194)

Agree – there may be specific circumstances where an individual situation requires specific conditions , the authority should retain the power to apply such conditions.

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? (Page 195)

Yes - There is considerable merit and benefit for local authorities to work together and devise a more universal way of applying regulations for taxis and for private hire services. It would be for local authorities to meet and discuss those areas where greater cooperation might be possible

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. *(Page 196)*

Agreed. See above. There is much work to be done in this area but the results of greater cooperation between licensing authorities could have the potential to bring many benefits to all parties

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. *(Page 196)*

Agreed – authorities should have the flexibility to be able to respond to the needs of their district.

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? *(Page 197)*

Agreed – although not an option we would currently consider it may be viable in larger cities. This may be difficult to enforce.

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. *(Page 198)*

Disagree – private hire operators should be able to take a booking from any location (as now) the operator should be allowed to sub contact the booking to any other licensed operator in any area, that operator would then despatch a driver and car licensed by them. It is not believed that to have a totally open system where any operator, car or driver can be licensed anywhere is a positive move forward. By nature the trade have a tendency to be changeable, it is believed that record keeping would become too onerous, drivers could potentially move around the country whilst any complaints against them would be difficult to track.

It would also have to be decided as to which authority had the ultimate responsibility for enforcement, the operators, drivers or proprietors as areas with less resource may not actions issues , believing the other authority would deal with the issue of say a complaint against a driver.

Areas which are traditionally busy will attract the most taxi and private hire trade , which operators from outside the district potentially for from three different issuing authorities , enforcement demand for these areas would be very high , if the revenue from licenses is not in that area would there be sufficient funds to supply the necessary enforcement.

Provisional proposal 42

We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs. *(Page 199)*

Agree – in line with above comments at proposal 41

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares. (*Page 200*)

Agree – the type of journeys are varied and the element of competition will keep similar journeys cost effective for the consumer.

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (*Page 200*)

Yes – provided the price is agreed in advance and that taxis and taxi operators are also required to keep a record of pre booked journeys

CHAPTER 16 – REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING

Question 45

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (*Page 203*)

Answer would be (b) although an absolute minimum could be set in primary legislation for some offences e.g. persons on the sex offenders register.

Provisional proposal 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. (*Page 204*)

Disagree – there should be a form of fitness test for proprietors , it is not appropriate for example for an individual with criminal convictions for money laundering to operate a fleet of vehicles, in the form of taxis or a hire company.

Question 47

Should national vehicle safety standards be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (*Page 205*)

Answer would be (b)

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. *(Page 207)*

Agreed – as currently all journeys are booked this way and it would appear to work well.

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? *(Page 208)*

Yes – as effectively a radio base is acting in the same capacity as a private hire operator , the same of very similar conditions should apply

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. *(Page 209)*

Agreed – in agreement with the law commission the current definition of operators is appropriate.

Question 51

Should “fit and proper” criteria in respect of operators be retained? *(Page 210)*

Yes- the position is one of responsibility for the safe operation of drivers and vehicles, the operator needs to set the standards. It accepted however that the fit and proper test is not of the same level as drivers.

Provisional proposal 52

Operators should be expressly permitted to sub-contract services. *(Page 210)*

Yes – that way cross boarder hiring can be opened up in a controlled way.

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? *(Page 210)*

Yes – in is reasonable for a taxi driver to keep records of pre booked journeys in case of complaint.

CHAPTER 17 – REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers. *(Page 213)*

Disagree – (For discussion with Councillors)

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? *(Page 213)*

Existing drivers would lose work. Increase in fees to deal with the increased demand. Lack of ranks and location of ranks. Increased ranks to facilitate extra vehicles would take up already highly desirable kerb space used for parking/disabled parking. De value goodwill for taxi plates in currently restricted areas

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed?
(Page 215)

N/A

CHAPTER 18 – TAXI AND PRIVATE HIRE REFORM AND EQUALITY

Question 57

Should there be a separate licence category for wheelchair accessible vehicles? This could involve:

(1) a duty on the licensee to give priority to disabled passengers; and

(2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. (Page 217)

No - It is felt that (1) maybe against the spirit of the Equality Act and (2) it is not understood how provision at ranks would work, in is the numbers of vehicles available.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? (Page 217)

No – other incentives should be offered.

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? (Page 217)

A minimum percentage of wheelchair accessible vehicles should be available

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. (Page 218)

A minimum percentage of wheelchair accessible vehicles should be available

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. (Page 219)

Agreed – this type of training is essential to facilitate efficient transportation and foster good relations with the disabled travelling public.

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. *(Page 219)*

Agreed - could there be guidelines agreement on sanctions against a driver's behaviour, if as it is proposed a driver can be licensed in one area, drive a car licensed in another area and work for a different operator it may be difficult to trace a driver for which a complaint is received. Also the same driver could move around districts freely and the history of complaints would not be known. It would also have to be clear who had the ultimate enforcement responsibility; the operator's issuing authority or the drivers.

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? *(Page 220)*

Agreed – obligation to stop if reasonable and safe

CHAPTER 19 – REFORMING ENFORCEMENT

Question 64

Should authorised licensing officers have the power to stop licensed vehicles? *(Page 222)*

Agreed – if contravention of the standards are breached an enforcement office should have the right to stop and question the driver and if required check the vehicle , serious issues could warrant suspension with referral at the earliest opportunity to the licence issuing authority

Question 65

What more could be done to address touting? Touting refers to the offence "in a public place, to solicit persons to hire vehicles to carry them as passengers". *(Page 223)*

Current legislation allows enforcement and this should be clarified and included.

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? *(Page 223)*

Yes – for serious offences, no insurance available, mechanical defects , unlicensed driver for example

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how? *(Page 225)*

Yes – fixed penalties do act a deterrent but would have to be strictly monitored

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. *(Page 225)*

Yes – subject to the agreed national standard, the issues should be referred back to the issuing authority

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? *(Page 226)*

Overall issuing authorities need to take full responsibility for the licensed they issue regardless of the area in which they work, this includes taxis.

Yes- suspensions for more serious cases involving safety, referring back t issuing authority to take appropriate action. No for revocations, should be dealt with by issuing authority.

CHAPTER 20 – REFORM OF HEARINGS AND APPEALS

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. *(Page 230)*

Agreed

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. *(Page 231)*

Councils have varying decision making processes, at Bradford it is Officer Discretion based on council Policy, with appeal directly to Magistrates Court. This process is under review for 12 months with a report back to members on the decisions that were made.

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court. *(Page 232)*

Agreed

Question 73

Should there be an onward right of appeal to the Crown Court? *(Page 233)*

Agreed

Law Commission Consultation on Taxi and Private Hire Services

Response of Bracknell Forest Council

It is recognised that reform in this area is necessary to bring the law up to date. Our response is based on this principle but with a view to the ultimate aim of protecting the public whilst recognising the system could be simplified to reduce the burden on business.

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares.

However we would disagree with the retention of the two-tier system. We would support the view that a one-tier system should be implemented with vehicles to be licensed as 'taxis', able to ply for hire in the district where they are licensed and able to carry out pre-booked journeys anywhere in the country. Local authorities could choose to allow only wheelchair accessible vehicles to use some or all of the ranks in their district.

The retention of the two-tier system would serve, in our view, to retain a complex system which is not understood by the majority of the general public. As the purpose of regulation in this area is to ensure public safety, a one tier system would be clear and ensure that the public are not put in danger by getting into a vehicle not insured for that type of journey.

Fares could have a maximum cap as set by the local authority with the provision that the consumer can negotiate with the driver/operator for a lower fare. Rank hirings and hailings could have metered fares and fares could be negotiated for bookings as with the current system.

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform.

Agree.

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver.

Agree.

Question 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence?

The obvious disadvantage is that this would mean that horse-drawn carriages and pedicabs could not be licensed and therefore safety issues for these forms of transport could not be addressed.

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers.

We would suggest further clarification in that PSV licences should only be available to vehicles of more than 8 passenger seats. Local authority licensing would cover vehicles which seat 8 or fewer passengers.

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis.

Agree.

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency.

Agree.

Provisional proposal 8

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service.

It is recognised that it is difficult to define ‘volunteer’. It remains a concern that unlicensed vehicles and drivers are used to transport vulnerable passengers – such as children and those visiting hospital for appointments. It is not known whether such volunteers are subject to regular criminal checks. Vehicles are also not checked to ensure that they are suitable, safe for use and maintained that way. Any exemptions should be carefully defined to ensure that whilst not overly bureaucratic, unscrupulous operators do not seek to take advantage of any loopholes.

Question 9

**How, if at all, should the regulation of taxis and private hire deal with:
(a) carpooling; and (b) members clubs?**

We would not see either of these as requiring a licence unless it was in the course of a commercial business.

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes.

Agree, although exclusions ought to be the subject of thorough consultation.

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation.

Agree. We are of the view that all vehicles carrying passengers in the course of a business and their drivers ought to be properly checked and vetted. It may be appropriate to allow such vehicles an exemption from display of the plate.

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse?

No. We are of the view that all vehicles carrying passengers in the course of a business and their drivers ought to be properly checked and vetted. Just because a contract is in place, it does not automatically follow that the public bodies involved have the resource to ensure compliance or to ensure continued fitness/suitability of the driver and vehicle.

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets".

Agreed – this should be any place within the district.

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank?

The airport should ensure that there is adequate provision for customers who have booked a vehicle to be collected without undue delay wherever possible.

Provisional proposal 15

The defining feature of taxis, the concept of "plying for hire", should be placed on a statutory footing and include:

- (a) references to ranking and hailing;**
- (b) a non-exhaustive list of factors indicating plying for hire; and**
- (c) appropriate accommodation of the legitimate activities of private hire vehicles.**

Agree, although we would suggest this would be very difficult to create and would suggest the reconsideration of a single tier licensing system would address this issue.

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services.

Any new legislation ought to consider how future technological advancements could arise in this field, and look to the benefit of the consumer provided there is no compromise to safety.

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of "arrangements made in a public place" instead of "plying for hire"?

We do not see any particular advantage, and would reiterate the simplicity of a one-tier licensing system.

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained.

There is an error in the consultation as taxis are not currently compelled to accept a booking when hailed. We would agree that compellability should remain for rank hirings with the driver able to refuse with reasonable cause.

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked.

Agree, although we would reiterate the simplicity and clarity of a one-tier licensing system.

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.

This proposal is likely to make enforcement more difficult and remain unsure how the contrary would be proved. It is presumed that the burden of proof would be on the driver.

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements.

This could assist, although Guidance is just that and is often open to different interpretations.

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned.

Agree, although we would reiterate the simplicity and clarity of a one-tier licensing system. The terms ‘taxi’ and ‘minicab’ would be clearer.

Question 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion?

If using the terms ‘taxi’ and ‘minicab’ then a clear distinction must remain, to avoid confusion for members of the public. Again, we would reiterate the simplicity and clarity of a one-tier licensing system.

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements.

Agree. Any such standards should be subject to full consideration with a technical panel including bodies such as VOSA. These safety standards should be distinguished from suitability and address frequency and standards of testing/inspection of vehicles. The same standards ought to apply to all licensed vehicles. There should be no distinction between types of licensed vehicle.

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards.

We would support the implementation of minimum national safety standards to encourage consistency. We would however suggest that these standards be the same for all licensed vehicles. We would also suggest that the licensing authority should be able to apply proportionate and reasonable additional requirements as they feel appropriate, such as signage on vehicles or livery policies.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards.

As above, we would support the implementation of minimum national safety standards to encourage consistency. We would however suggest that these standards be the same for all licensed vehicles.

We would also suggest that the licensing authority should be able to apply additional requirements as they feel appropriate, such as signage on vehicles or livery policies.

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers.

We would agree that suitability standards could be set nationally, although this must be at an appropriate level. As an example, the DSA practical driving assessment should be used to ensure competent driving skills. There should also be disability awareness training as the safety of a disabled passenger could be at risk. Navigational skills and basic numeracy and English communication skills should also be taken into account. For this reason we would suggest that local authorities retain the ability to carry out their own topographical tests as it is reasonable to check that an applicant has a basic knowledge of key locations in the area.

Returning to the single tier argument, this would allow for national standards but local discretion in respect of local knowledge testing.

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable?

We believe that there should be a national standard for signage on licensed vehicles to aid the general public in identification of licensed vehicles and to ensure consistency. Continuation of the two-tier system makes this even more important.

The single tier option would, of course, remove the need to distinguish between the two types of vehicle which would be an even greater benefit to the consumer.

We would support a discretion for local authorities to issue exemptions for certain types of vehicles - such as executive vehicles only carrying out 'chauffeur' work on account. This would best be achieved by the local authority being able to set a condition on a particular vehicle licence.

Question 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles?

A common set of national safety standards which apply to any kind of licensed vehicle should result in greater consistency. The key is that a consumer should be just as safe irrespective of the type of licensed vehicle they are travelling in.

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services?

We would have no objection to the setting of a driver safety standard as we recognise that drivers can be vulnerable to crimes committed by passengers and the general public. We would support any installation of equipment designed to ensure driver or public safety.

However any such proposals should be subject to full consultation to ensure that they are workable. We see no reasons why there should be differences between the types of licensed vehicle other than reasons of practicality.

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should only cover conditions relating to safety.

We would see safety as being a wide-ranging remit which could look at the fitness and suitability of the vehicle and driver but also disability awareness, navigational skills, customer care, etc. National guidelines would be useful but without clarification of what would be included it is impossible to comment further.

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement.

Agree.

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel?

A technical advisory panel could create a draft which is then subject to consultation with all stakeholders.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards.

We are of the view that local authorities should as a minimum be able to set appropriate fares for the taxis operating in their area.

As mentioned previously, whilst we support the introduction of minimum national standards, we believe that the local authority is best placed to determine whether it would be appropriate to set certain local standards or conditions. We do however accept that there is a need to ensure consistency wherever possible.

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards?

We cannot comment in full without knowledge of what is proposed for inclusion within the national minimum standards. We do however accept that there is a need to ensure consistency wherever possible.

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators?

We cannot comment in full without knowledge of what is proposed for inclusion within the national minimum standards. We do however accept that there is a need to ensure consistency wherever possible, whilst recognising that power to impose individual conditions can assist with flexibility for exceptional cases.

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements?

We are unsure how a statutory requirement for co-operation would work in practice and we are unsure why this would be necessary.

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting.

Agree.

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area.

Agree, as this may assist in the provision of taxi services in more rural areas.

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority?

We do not see how this would work in practice as it would be almost impossible to enforce and control.

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority.

We would not agree with this proposal.

How would a licensed operator using a driver/vehicle licensed by another authority know if that driver or vehicle licence had been revoked by that authority? The local authority revoking the licence would not be aware which operator(s) the driver/vehicle worked for if they were not licensed by that same authority, so they would not be able to make the operator aware. This has huge implications in respect of the safety of passengers.

If this proposal was to be implemented, there would be a need for a national register of drivers, vehicles and operators which would be very costly and time consuming. Who would ensure the register is kept up to date and remove lapsed licences, etc? Operators would need to be able to search the register to check licences so there are data protection issues.

Provisional proposal 42

We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs.

We would suggest that under the one-tier licensing system, a licensed taxi could only ply for hire, accept hailings and use ranks in their home authority. However they could accept pre-booked work outside the area, in which case we would agree with the proposal.

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares.

Agree. However it would be even clearer for the consumer if all licensed vehicles had meters and they knew that for rank/hailed bookings the meter should be used, with pre-booked journeys either agreed in advance or metered.

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys?

It would be clearer for the consumer if all licensed vehicles had meters and they knew that for rank/hailed bookings the meter should be used, with pre-booked journeys either agreed in advance or metered.

Question 45

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions?

Improved guidance on suitability of persons to be licensed with clear guidelines would aid consistency; however there is a danger that setting out such matters in primary legislation would reduce the ability to be flexible. 45(b) would be the preferred option

Provisional proposal 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself.

Agree.

Question 47

Should national vehicle safety standards be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions?

As per question 45, there is a need to ensure that flexibility is retained in order to make changes quickly as required. 47(b) would be the preferred option

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles.

Agreed; this is key to ensure that bookings are properly recorded.

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis?

If a third party is taking bookings, we are of the view that they should be appropriately licensed.

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries.

If the intermediary is dealing only with licensed operators, then they would not require an operator licence, however where the intermediary is dealing directly with the driver of a vehicle then they should require an operator licence.

Question 51

Should “fit and proper” criteria in respect of operators be retained?

Yes, as operators are privy to personal information about their customers including knowledge of when they are on holiday. All staff working for a licensed operator should also be vetted, for the same reasons.

Provisional proposal 52

Operators should be expressly permitted to sub-contract services.

Agree, and they should be required to keep a record of the operator to whom they sub-contract the booking. The original terms of the contract with the customer should be maintained, for example the quoted fare.

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply?

Drivers should keep a log of all bookings in case there are complaints or allegations that need to be investigated.

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers.

Agree.

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers?

No limit applies in the Bracknell Forest area so we have no comment.

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed?

No limit applies in the Bracknell Forest area so we have no comment.

Question 57

Should there be a separate licence category for wheelchair accessible vehicles? This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and**
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles.**

This proposal needs to be clarified. It is unclear how a licensee would be able to give priority to disabled passengers, given there are a wide range of types of disability. How would the licensee know that the passenger was disabled, if it wasn't visually obvious?

For example, if taxis are required to give priority to wheelchair users, does that mean they have to allow wheelchair users to jump the queue at ranks? This could cause friction with others in the queue and embarrassment to the wheelchair user. In respect of phone bookings taken by either an operator or a hackney carriage directly, will they be required to cancel other bookings to fulfil that of the wheelchair user?

We would suggest licensing authorities are best placed to determine whether there is adequate provision at ranks for all of their licensed vehicles – including wheelchair accessible vehicles. Circumstances will vary greatly between different local authority areas. Certain ranks could be reserved for accessible vehicles (either permanently or at key times during the day/night).

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards?

Any discount offered against the licence fee is likely to be a small amount when compared with the cost of purchasing a vehicle. As the licensing authority sets the licence fee with a view to covering the cost of administering the licensing regime (including inspections and enforcement), and any discount would effectively pass the cost on to either the tax payer or the other licensed vehicles.

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers?

Local authorities should have the ability to reserve prime (or all) ranks for accessible vehicles. Education and training of drivers is also key as many licensed drivers lack awareness and confidence so mandatory training could address this.

Different age restrictions for accessible vehicles could be appropriate provided safety standards are not compromised. Bracknell Forest also publishes a register of accessible vehicles in the area which can help to promote the availability of such vehicles.

There could be alternatives to funding through subsidies from central government, free/reduced cost road tax.

Licensing authorities should have clear enforcement powers so they can deal with drivers who fail to offer reasonable assistance to disabled passengers, with more appropriate penalties for offences.

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles.

Agree.

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training.

Agree.

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority.

Agree (this is already the case in Bracknell Forest).

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help?

It is unclear how this could be enforced, given the driver may not be aware that the person hailing them is disabled. It would seem more reasonable to suggest that taxis should be obliged to stop for all persons who hail them in their district, provided they are available for hire and it is safe to do so. Clearly the driver must retain the option to refuse the fare for a reasonable cause.

Question 64

Should authorised licensing officers have the power to stop licensed vehicles?

There are practical problems associated with this proposal, as we see no safe method for licensing officers to stop licensed vehicles in the way that a police officer can. We would suggest that a licensing officer should have powers to direct vehicles to a particular location to be checked/tested or to remain stationary.

Question 65

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”.

Under a single tier system, all vehicles would be able to be hailed without the need for a prior booking, so this would remove the issue of touting. Where a third party is taking bookings, they should be licensed as an operator.

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules?

This may be desirable in respect of unsafe or unlicensed vehicles, although the powers should be exercised in conjunction with either a police officer or authorised VOSA officer. There should be clear guidelines to ensure that the powers are only used proportionately.

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how?

Fixed penalties could be used as a simple method for dealing with offences such as not wearing the badge or displaying the plate, as taking prosecutions can take a great deal of time and money. The offence would have to be clear and guidelines should be set to clarify this.

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas.

This could be possible in respect of matters covered under national standards or legislation. However there should be a requirement to make the 'home' authority aware of any action taken either prior to or immediately after that action is taken.

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this?

It is difficult to see how this would work in practice. It would seem more sensible for the 'home' authority to take action in respect of their own licences - although there would be no concerns about the issue of fixed penalties for certain clear-cut offences.

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence.

Agree.

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision.

This does not seem a sensible, unless there has been a material change in circumstances. The Council makes a decision based on the relevant delegated powers and any re-consideration could be viewed as biased, and would also create additional cost for the authority and delay for the applicant who may prefer to appeal directly to the Magistrates' Court.

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court.

Agree. This should include appeals against refusals to grant hackney carriage vehicle licences which currently go to the Crown Court.

Question 73

Should there be an onward right of appeal to the Crown Court?

No; as for other cases, an appeal to the Magistrates' Court should be sufficient.

Public Law Team (Taxi and Private Hire),
Law Commission,
Steel House,
11 Tothill Street,
London
SW1H 9LJ

Licensing Committee

Harlow Council
Civic Centre



Our Ref:

Your Ref:

Date: 10 September 2012

Dear Sirs,

Reforming the Law of Taxi and Private Hire Services

further to a resolution of the Council's Licensing Committee I write to inform the Commission of the views of Committee Members on the principles of reform set out in its consultation document; and to draw to the Commission's attention the Committee's concern over a weakness in the current regime that the Committee feels should be considered carefully in making proposals for new legislation.

The Committee welcomes the opportunity to contribute to the consultation and supports the review of the current, in part antiquated, legislation.

- The Committee prefers to see the distinction between Hackney Carriage and Private Hire maintained.
- The Committee would like to see national minimum safety standards for both trades but welcome retaining the provision of local standards for Hackney Carriage licensing at least, in addition to this.
- The Council has received a number of enquiries from the trade about the current legality of cross-boarder working. The current legislative controls appear confusing to the trade so a clearly-defined position on cross-boarder working would be welcomed. There is a legitimate concern that it is lawful for a private hire operator to employ Hackney Carriages licensed elsewhere to undertake bookings. Conditions legitimately applied by the Council to the locally licensed trade will not apply. This at least in principle undermines local standard-setting.
- There is a proposal for drivers nationally to receive disability awareness training; this is welcomed by the Committee and reflects current practice in Harlow where all new drivers undergo disability awareness training.
- The Commission proposes better definition in the legislation of certain matters such as whether a child minder taking children to school should be licensable as Private Hire work; and a specific definition of 'plying for hire' for example. The Committee welcomes clarification of such matters.

Please do not hesitate to contact the Council if you have any query in relation to the foregoing.

Yours faithfully,

Councillor Ian Beckett,
Chair, Licensing Committee,
Harlow Council.

LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

OVERVIEW OF PROVISIONAL REFORM PROPOSALS

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. (Page 160)

Agreed, the two tier system should be retained.

REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. (Page 162)

Agreed, London should be included within the scope of the reform. Like Basildon, there are local authorities that boarder the Greater London area and the systems should be synergy of standards.

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. (Page 164)

Agreed, to allow flexibility and allow the public a wider range of vehicles available for hire. From the trade point of view to allow innovation.

Question 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? (Page 164)

No licensing should cover all vehicles available for passenger hire with the services of a driver.

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. (Page 165)

Agreed

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. (Page 166)

Agreed

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. (Page 167)

Agreed

Provisional proposal 8

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. (Page 168)

It is agreed, genuine volunteers should be excluded however, the concept of ‘in the course of a business of carrying passengers’ needs to cover those who might exploit such a system by charging expenses. Authoritative guidance on the definition of the phrase to emphasize that it applies only to trade/business.

Question 9

How, if at all, should the regulation of taxis and private hire deal with:

- (a) carpooling; and
- (b) members clubs? (Page 170)

Carpooling should be exempt, members clubs should be licensed – the concept of ‘in the course of a business of carrying passengers’ needs to be clearly defined

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. (Page 171)

Agreed

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. (Page 172)

Vehicles undertaking 'funeral services' should remain excluded from private hire licensing through primary legislation. Wedding cars are, in practice, used for hired journeys of a variety of types. They are more akin to executive cars hired for special occasions e.g. birthdays.

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse? (Page 174)

No, this could give rise to further loopholes.

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets". (Page 175)

Regulation should not be limited to streets. We would suggest that the new definition should be 'within the district'.

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? (Page 177)

The regulations for Airports, Railway Stations and Seaports should mirror those nationally.

Provisional proposal 15

The defining feature of taxis, the concept of "plying for hire", should be placed on a statutory footing and include:

- (a) references to ranking and hailing;
- (b) a non-exhaustive list of factors indicating plying for hire; and
- (c) appropriate accommodation of the legitimate activities of private hire vehicles. (Page 181)

Agreed, although arguable the wealth of case law, over the years, has succeeded in

achieving a good understanding of 'plying for hire'.

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. (Page 181)

Agreed

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of "arrangements made in a public place" instead of "plying for hire"? (Page 182)

Agreed , see comment in 15 above.

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained. (Page 182)

Agreed

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. (Page 183)

Agreed

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved. (Page 184)

Disagree, it would make it difficult to take enforcement action against a driver as a driver could simply declare that he was not working, when he is not complying with the national standards/local conditions. Principles established in Benson V Boyce should continue.

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements. (Page 185)

Agreed

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned. (Page 185)

Problem is that colloquially to the majority of the general public ‘taxis’ will refer to both hackney carriage and private hire vehicles, so some confusion will remain. However this needs to be considered with question 23.

Question 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion? (Page 186)

The term is often used in bona fide company names, proposal 22. However, this may confuse the issue more for the public, particularly as ‘taxis’ are seen to be those types of vehicles that can be hired immediately. Perhaps the Advertising Standards Authority may wish to comment on this in regards to ‘misuse of term’.

Taxis – used generically for both classes of vehicle;
Hackney carriage – continue as legal description as vehicles plying for hire;
Private Hire Vehicles – as existing definition, requires pre booking

A REFORMED REGULATORY FRAMEWORK**Provisional proposal 24**

Taxi and private hire services should each be subject to national safety requirements. (Page 188)

Strongly recommended, greater consistency welcomed.

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards. (Page 189)

Agreed,, however we have concerns that lower standards would be introduced to allow

for the 'lower common denominator'. This local authority believes it has higher standards that it wishes to maintain.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. (Page 189)

Agreed, but refer to above comments about the risk of lowering standards to fit all. We would like to know what the minimum standards are likely to be before commenting further.

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers. (Page 190)

Disagree, it is as equally important for a private hire driver to understand and appreciate his local surroundings.

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? (Page 190)

Yes, although we would like to know what the national standards are likely to be

Question 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? (Page 191)

Licensing authorities have differing views on suitability criteria and vehicle specifications. Also this would allow vehicle manufacturers to produce vehicles to match said requirements. Nevertheless it is a worthwhile objective, necessary to achieve consistency. Again we would like to know what the standards could include – consultation with all stakeholders will be vital.

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (Page 192)

No

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should only cover conditions relating to safety. (Page 192)

No. Questions of suitability must also include considerations of passenger accessibility and comfort, minimum levels of passenger assistance expected. Also consumer protection e.g. guarding against fraud through charging excessive fares.

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. (Page 193)

Agreed

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? (Page 193)

We agree that there should be the statutory requirement to consult with a referral to a technical advisory group. Any panel must be fully representative of all interests, particularly those of licensing authorities.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. (Page 193)

Agreed, refer to earlier comments re safeguarding of standards of safety and care.

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? (Page 194)

This may aid consistency, however without knowing what they are likely to be, its difficult to draw a firm conclusion.

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? (Page 194)

Yes, in relation to both private hire and hackney carriage drivers/vehicles and operators

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? (Page 195)

Local arrangements with minimum requirements and guidance shall be set down in legislation, however, as a point of good practice, a duty to co-operate would be acceptable.

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. (Page 196)

Agreed, if applicable this would assist.

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. (Page 196)

Neither agree or disagree. Not within our experience – no justification for establishing separate zones in our borough.

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? (Page 197)

We do not agree with this. Our issues are as follows:- Could this be seen as a way for licensing authorities to numerically restrict the issuing of licences? Would it be demanded, if so how could this be measured? What enforcement powers will be available where a licence is being used outside of the 'peak times'?

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. (Page 198)

Depends what the national standards are. This could be difficult in terms of

enforcement – who should the user complain to when things go wrong?

Provisional proposal 42

We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs. (Page 199)

Depends on the outcome of proposal 41

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares. (Page 200)

Agreed, the status quo should continue subject to proposal 38.

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (Page 200)

No

REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING

Question 45

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 203)

The principle of ‘fit and proper person’ and national driver safety standards should be set out in primary legislation. The Secretary of State and Welsh Ministers allowed to further define driver safety standards by regulation, should the need arise

Provisional proposal 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. (Page 204)

Minimum agreed threshold standards for owners e.g. to assure that he has control over vehicles, who drives it, and has the capacity financial or otherwise to maintain the vehicle in a licensable conditions.

Question 47

Should national vehicle safety standards be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions? (Page 205)

National Vehicle Safety Standards should be set out in primary legislation. The Secretary of State and Welsh Ministers allowed to further define safety standards by regulation, should be need arise

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. (Page 206)

Agreed

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? (Page 208)

Yes, as private hire to extend equivalent control over the use of hackney carriage or private hire circuits.

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. (Page 209)

Disagree

Question 51

Should "fit and proper" criteria in respect of operators be retained? (Page 209)

Yes

Provisional proposal 52

Operators should be expressly permitted to sub-contract services. (Page 210)

Agreed, but the hirer should be made aware, at the point of booking. Original private hire operator can't delegate responsibility for failure/unlawful practices and behaviour of

the sub-contractor.

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? (Page 210)

Yes

REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers. (Page 213)

Agreed.

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? (Page 213)

Basildon Council removed its policy of quantity control in 2005. The local taxi trade has raised concerns over over-ranking, obstruction and general parking problems between competing drivers, less work leading to reduced maintenance of vehicles and force owner drivers out of the trade, cherry picking the best jobs, drivers losing their homes due to increased numbers, less work etc.

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed? (Page 215)

Not applicable in this Borough since quantity control already removed.

TAXI AND PRIVATE HIRE REFORM AND EQUALITY

Question 57

Should there be a separate licence category for wheelchair accessible vehicles? This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. (Page 217)

There needs to be a system of readily identifying wheelchair accessible vehicles but

which can be equally used by all types of passengers. Majority of wheelchair work is undertaken by private hire vehicles because disabled passengers want a 'door to door' service. However, adequate provision at ranks for wheelchair accessible vehicle would be helpful, where this is practically achievable.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? (Page 217)

No

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? (Page 217)

No

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. (Page 218)

Agreed, mixed fleet would be better.

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. (Page 219)

Agreed and refresher training

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. (Page 219)

Agreed

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? (Page 220)

A legal obligation with sanctions for failure to comply

REFORMING ENFORCEMENT

Question 64

Should authorised licensing officers have the power to stop licensed vehicles?
(Page 222)

Yes

Question 65

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”.
(Page 223)

Increase test purchasing could be a way of dealing with this

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? (Page 223)

Yes, where serious vehicle safety issues identified, but like most licensing authorities, the storage and safety of vehicle could be an issue.

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how? (Page 225)

Yes, civil penalties for licensing violations & criminal penalties for serious offences e.g. where passenger safety compromised.

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. (Page 225)

Agreed, but a workable system of flexible warranting would need to be introduced.

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? (Page 226)

Yes, by 'home' licensing authority utilising 'home authority' principles.

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. (Page 230)

Agreed, person directly affected by the decision are the aggrieved party.

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. (Page 231)

Disagreed

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court. (Page 232)

Agreed

Question 73

Should there be an onward right of appeal to the Crown Court? (Page 233)

Agreed

Reforming the Law of Taxi and Private Hire Services

**Consultation Response
Allied Vehicles Group**

September 2012

CONTENTS

A. Key Themes	Page
1. About us	1
2. A Deregulatory Approach	2
3. Market Failure	3
4. Safety and Quality	7
5. Equality	10
6. EU Law	23
B. Detailed Comments	
Response to statements, questions and provisional proposals in the consultation document.	
C. Appendices	
A1. First Cab on the Rank – Licensing Team Survey	91
A2. First Cab on the Rank – Taxi Organisations Survey	109
A3. Draft Mayor’s Air Quality Strategy – Taxi Trade Workshop	117
A4. Wheelchair Accessible Taxi Model - Private Hire Availability	121
A5. Wheelchair Accessible Taxi Model Price Comparison	123
A6. Health & Safety Laboratory Report for HSE - Ergonomics assessment of the movement of wheelchair users by taxi drivers	125
A7. Vision One Private Hire Wheelchair Accessible Vehicle Research	155
A8. Wheelchair Accessible Vehicle Penetration – Taxis & Private Hire Vehicles	169
A9. Taxi Sales Market Share outside London Conditions Areas	173
A10. Areas now Progressed from London Conditions – Congestion and Identification	185
A11. London Mercedes Vito Drivers – Turning Circle Survey	191
A12. STATUS comparison of vehicle measurements, using PAS 2012 methodology	193
A13. Witness Statement of Alma Lunt	195
A14. Witness Statement of Jean Price	209
A15. Witness Statement of John Bruce	219

A. KEY THEMES

1. About us

- 1.1. This is the response of the Allied Vehicles Group to the Law Commission's consultation paper on reforming the law of taxi and private hire services.
- 1.2. Allied Vehicles is a converter and supplier of special purpose vehicles, employing around 400 people across the UK. In particular:
 - i. Our Allied Mobility trading division supplies a range of wheelchair accessible cars, people carriers and minibuses to individuals, care providers, hospitals and community transport organisations. Allied Mobility is the largest supplier of wheelchair accessible vehicles to the UK Motability Scheme.
 - ii. Our taxi division, Cab Direct, provides a range of standard and wheelchair accessible vehicles to taxi and private hire operators. Cab Direct is the largest vehicle supplier to the cab industry across the UK, except in the small number of areas where we are unable to offer our products owing to historic licensing restrictions.
 - iii. Allied Electric produces a range of zero-emission, all-electric light commercial vehicles to public and private sector customers both within the UK and internationally. Allied Electric is the largest UK-owned electric vehicle manufacturer.
- 1.3. We are well-placed to contribute in an informed way to the Law Commission's review as a result of our expertise in the design and construction of special purpose vehicles; our experience of working with disabled people to develop solutions to enhance mobility; and our extensive experience of working with the taxi industry, licensing officers and local authorities generally throughout England and Wales.

2. A Deregulatory Approach

- 2.1. We welcome the Commission's starting premise of a deregulatory approach. There is considerable scope to simplify the law in this area and the test that regulatory intervention should "be justified as necessary, and...structured in the right way to accomplish its supposed ends", (§1.7) is a sound one.
- 2.2. Much of the detailed analysis in the consultation document is informative and helpful, and in line with the underlying aim of justification, modernisation and simplification of the regulation of taxi services. It seems to us, however, that:
 - i. The deregulatory approach is pursued in relation to some aspects of market failure, but not in relation to others;
 - ii. Some aspects of the proposed new licensing framework, particularly in relation to safety and quality, are unnecessarily complex and take no account of existing regulatory expertise and established national and international standards; and
 - iii. The assessment of issues affecting mobility for disabled people stops short of proposing positive reforms to address the structural barriers to improving safety and independence for disabled people.

3. Market Failure

- 3.1. We consider that the regulation of taxis should be characterised by the operation of a free market, allied to appropriate protection of consumer rights through proportionate regulatory intervention. This resonates with the underpinning premise of ‘a deregulatory approach’, in which licensing authorities act proportionately, with a presumption in favour of individual freedom and free market competition.
- 3.2. Such conditions do not currently prevail in all parts of the taxi services market. The consultation paper describes the condition and effects of a distorted market as follows:

“Market failure” describes the situation in which some flaw in the operation of the market means that the outcomes are not the optimal ones that economic theory would predict, if the market was working properly. A flawed market may mean that consumers pay higher prices, quality is lower or there is less supply than would be the case if the market was working properly.’ (§7.4)

- 3.3. You go on to identify three areas where market failure can be identified in the cab industry.

- 3.3.1. Firstly, in relation to regulation of fares, you discuss the nature of the transaction between a consumer and a public hire taxi at the point of hailing a hackney cab, or approaching a hackney rank:

‘Fares are a particularly acute example of how market failures in the rank and hailing market for taxis, which prevent normal competition, can hurt consumer interests. Consumers are generally in a weak bargaining position and have limited choice, with taxis exercising something akin to monopoly power.’ (§2.32)

The particular nature of the transaction means that the competitive balance between supply and demand is unable to operate normally. On this, you conclude that regulatory intervention, by way of setting standardised tariffs for taxi fares, is justified in order to protect the interests of consumers.

- 3.3.2. Secondly, you consider the question of quantity restrictions on taxi licence numbers. Quoting from the OFT’s 2003 market study you note that:

‘The Office of Fair Trading also expressed concerns that the effect of restrictions may be to prevent some people entering the market.’ (§9.19)

and that the OFT concluded that:

‘quantity restrictions do not serve the best interests of consumers...[because] they restrict consumers from securing the services they require, and also impede those wishing to become taxi drivers from doing so.’ (§9.20)

In effect, the very aim of the restriction is to prevent increased competition. On this point you therefore conclude that quantity restrictions are not justified and should be removed, in order to further the interests of consumers.

- 3.3.3. Thirdly, you identify circumstances in which regulatory intervention has the effect of restricting competition:

'The Office of Fair Trading's analysis identified...[concerns] about the use of the Metropolitan Conditions of Fitness (these are conditions which apply to the London black cabs for example) which it was feared could increase costs and deter entry to the market.' (§1.46)

You also note that:

'Stakeholders have raised concerns about licensing authorities' imposition of over-prescriptive or seemingly arbitrary conditions, as well as conditions which place a heavy financial burden on owners, such as colour and age policies. Certain licensing conditions are a cost to the trade and may not yield a corresponding benefit to consumers.' (§8.22)

and that:

'the stringent knowledge tests required of drivers in London and the costly vehicles required to meet the conditions of fitness constitute a significant barrier to entry and are widely regarded as achieving an equivalent result to quantity regulation.' (§9.4)

Yet, while you acknowledge that these regulatory restrictions impact negatively on taxi owners and consumers¹, on this point you do not pursue your deregulatory premise, and there is no recommendation in the consultation paper to address this market failure.

- 3.4. *Table A* below considers the three areas of market failure identified above by reference to the symptoms identified in the definition of market failure at §7.4, i.e.: (a) consumers paying higher prices; (b) reduced quality; and (c) less supply than would be the case if the market was working properly.

¹ Including through increased fares where, as in London, fares are based on a formula which includes vehicle purchase and operating costs: see §2.41

Table A

	Rank / Hailing Transaction	Quantity Restrictions	Over-prescriptive vehicle restrictions	
			Vehicle Consumers	Passenger Consumers
Consumers pay higher prices	Yes, in the absence of regulated fares, because of quasi-monopoly transaction at point of hailing.	Yes, in the absence of regulated fare tariffs, owing to lack of competitive pressure on fares.	Yes. High barriers to entry reduce competition in the vehicle market, resulting in higher prices for vehicles, paid by taxi owners and ultimately passed onto passengers.	Yes. In London and other areas where regulated fares are linked to vehicle purchase and running costs, the higher cost of vehicles are passed onto consumers through fares.
Quality is lower	Possibly. Where they have a choice consumers are likely to opt for more modern / comfortable vehicles, driving up quality.	In theory increased competition would drive up quality of service, although evidence comparing regulated and deregulated areas suggests the reverse may be true.	Yes – reduced competition results in less consumer choice, reduced innovation and the non-availability of various high quality models used elsewhere.	Yes – reduced competition results in the non-availability of high quality models available elsewhere. Also, higher prices means vehicles are replaced less often, leading to a higher proportion of ageing vehicles.
There is less supply	No.	Yes.	Yes – more than 25 models of wheelchair accessible taxis are available across the UK; in areas with the London Conditions just two vehicles are available.	Yes – the higher costs associated with purchasing a new vehicle raise the barriers to entry for taxi drivers/owners.
Proposed Law Commission Remedy	Retain pricing intervention to protect consumer. (Provisional proposal 43.)	Remove quantity intervention, to better serve interests of consumers. (Provisional proposal 54.)	None	None

- 3.5. As can be seen, there is a serious omission in the Commission's draft proposals. Having identified a major aspect of current taxi regulation that harms the interests of consumers, no proposals are advanced to address it. This is a significant inconsistency, since the market failure identified (and identified by the OFT as long ago as 2003) affects a third of all taxis in England and Wales, including two of the largest local fleets, in London and Manchester.
- 3.6. There is a clear economic and legal case for intervention to address the harm to consumers brought about by overly prescriptive licensing policies which limit vehicle choice and have market distorting effects at least as harmful as quantitative restrictions. We note that such intervention is also necessary to bring these historically anomalous licensing policies into line with the requirements of European law, the requirements of which are addressed further in section 6 below.,

4. Safety & Quality

- 4.1. The protection of public safety is accorded significant priority in the consultation paper and provisional proposals. Regulatory intervention can often be justified for this purpose, as you explain:

'One particular source of market failure is where there are imbalances between the information available to one side or the other in the transaction. Such imbalances can arise where a consumer cannot be expected to have specialist technical knowledge.' (§7.14)

- 4.2. Safety, as it affects members of the public (and drivers) travelling in licensed taxi and private hire vehicles, has three main elements:
- i. Protection of passengers against abuse, robbery, violence or discrimination by taxi drivers, and *vice versa*;
 - ii. Protection of passengers and drivers by ensuring that the vehicle is of safe design and construction; and
 - iii. Protection of passengers and drivers by ensuring that the vehicle has been satisfactorily maintained and is in a sound operating condition.

Distinguishing safety and quality

- 4.3. Quality is a different and more subjective issue than safety. At times the consultation paper conflates safety and quality, suggesting they are similar issues in regulatory terms. We find the use of the term “quality” in this context ambiguous and liable to mislead, since it seems to be used to refer to matters that affect the quality of consumer experience, e.g. cleanliness and comfort of the vehicle, and also to refer to features of vehicles that have no connection to the quality of the consumer experience, e.g. overall vehicle dimensions, fuel economy, degree of turning circle etc.
- 4.4. The condition in which parts of a vehicle are maintained may be both a quality and a safety issue. However, assessment of the various advantages and disadvantages of features of one make or model of vehicle relative to another is a subjective matter, best left to market forces. To use an analogy, consumers would expect regulation to ensure that all central heating boilers sold in the UK meet minimum safety standards, and there is regulation to ensure that installation and maintenance of boilers is carried out by qualified professionals. However, it would be disproportionate for local regulators to set specific conditions as regards the performance, design features or value for money of different makes and models of boiler.
- 4.5. We think it important that any proposals for regulation to protect safety (such as compliance with recognised national or international safety standards and conditions relating to vehicle maintenance) must be clearly distinguished from regulatory intervention concerned with other characteristics of taxis, some of which might be described as relating to “quality” (such as vehicle age or cleanliness), and others of which are not matters of “quality” but simply features of a particular vehicle or vehicles (e.g. make or model, fuel type, design features such as door type or turning circle).

Driver safety

- 4.6. Matters of safety for passengers seem to us to be fully addressed in the consultation paper. We note, in particular, that stronger enforcement action to address illegal touting has an important role to play in protecting passengers from unlicensed drivers (and vehicles).
- 4.7. However, we consider that greater emphasis should be given to the protection of drivers. Reports of robbery, abuse and violence against taxi and private hire drivers are common, and that level of violent crime would be deemed intolerable in most other occupations. We consider that more effective measures are needed to enable drivers to work in reasonable safety and dignity at all times. These matters could also be addressed in the proposed national safety standard.

Vehicle safety

- 4.8. Regulation of vehicle safety is, needless to say, a highly technical matter. In a well-functioning market, innovation in vehicle design and construction can be expected to deliver continuous improvement in terms of reducing accidents and improving survival rates, both for vehicle occupants and for other street users. Such advances bring with them even more complex technology.
- 4.9. There are well established national and international standards designed specifically to ensure the safe design and construction of all motor vehicles. Developed by expert regulators in conjunction with the automotive industry as a whole, Type Approval schemes are legally binding at an international level and provide robust, tested and effective benchmarks for the safety of all vehicles. For taxis and private hire cars, M1 category Whole Vehicle Type Approval represents the 'gold standard' in terms of safe vehicle design and construction within the EU.
- 4.10. We agree with the conclusion in the consultation paper that all taxi and private hire vehicles should meet national safety standards.
- 4.11. Safety is emphatically *not* a matter suitable to be regulated at a local level, for three reasons.
- 4.12. First, consistency of consumer protection. Passengers would not expect east coast trains to be any more or less safe than west coast services, or one airline to operate to different regulatory safety standards than another. Equally, a taxi passenger in one area of the country should not be any less safe than a passenger in another area; and passengers in private hire vehicles should not be any less safe than passengers in taxis.
- 4.13. Secondly, local authorities do not have the expertise or overview of automotive safety matters to set safety standards in this area. Given the existence of robust national and international standards for automotive safety, there is no benefit to be derived from inviting 300+ local authorities to design alternative safety standards, even assuming they could access appropriate expertise to do so.
- 4.14. Thirdly, variations between different local standards would inevitably lead to higher barriers to entry in some areas, and a disproportionate regulatory burden. It is simpler, more robust and proportionate to apply existing established safety standards derived from national and European Type Approval frameworks (applied in the UK by the Vehicle Certification Agency). Indeed, assuming the proposed national standard imposes the minimum requirements necessary to ensure safe provision of a taxi

service, any “gold-plating” of those standards by local authorities would, by definition, be unnecessary and disproportionate.

Safety of disabled passengers

- 4.15. Taxi and private hire vehicles that offer services adapted to the needs of people with disabilities should be subject to appropriate safeguards regarding the design and construction of adapted features, in particular those which enable passengers to travel in a wheelchair while properly secured in a safe travelling position.
- 4.16. Any national safety standards for taxis and private hire vehicles should include provision to ensure safety for wheelchair occupants. This requirement will, in our view, be best expressed through conformity with the specialised national standard for design and construction of wheelchair accessible vehicles, PAS 2012².

Vehicle maintenance

- 4.17. Ensuring that vehicles are maintained in good working order is as important as ensuring that they are of sound design and construction. This is one area in which local licensing departments play an important role, although it is evident (both from published procedures and standard of fleets) that current inspection regimes and enforcement activities vary widely across England and Wales.
- 4.18. The work of the Technical Officer Group of the Public Authority Transport Network, supported by the Department for Transport, is a welcome initiative in this regard, as a helpful step in ensuring consistency and robustness in vehicle inspection programmes.

² BS PAS 2012-1:2012 Specification for M1 vehicles for the carriage of one or more passengers seated in wheelchairs. Manufacturing requirements, British Standards Institution, 1 May 2012.

5. Equality

- 5.1. We welcome the commitment that '*ensuring proper accessibility is a priority of this review*' (§18.2), and recognition of the importance of taxis to disabled people as '*the most flexible form of public transport there is*' (§18.3). We agree that disabled people's needs differ widely and that a diversity of solutions is necessary to meet those needs (§§11.3, 11.4, 11.13).
- 5.2. The Law Commission's brief is to review current taxi and private hire licensing law from a deregulatory and pro-consumer perspective. It therefore has a unique opportunity to influence the law to secure progress towards substantive equality for disabled people in terms of the way they access public transport and, in turn, the places where they live, work at or are visiting. That is particularly so because, as the Commission recognises, disabled people are disproportionately high consumers of taxis and private hire services compared to the general population. Ensuring that taxi services are safe and accessible for those with disabilities must be a priority of any change in the law.
- 5.3. The Commission's provisional proposals, if implemented, will mean this opportunity being squandered. We do not say this lightly. In summary, we do so because:
 - 5.3.1. despite the current regulatory regime being directly responsible for inequality between disabled and non-disabled people in particular parts of the country (including the two largest licensing authority areas in England, London and Manchester), the Commission proposes only moderate changes to the regulation of taxis;
 - 5.3.2. the inequality between wheelchair users and other taxi passengers is serious – it affects many thousands of people, very frequently ("daily" in the view of some organisations the Commission's officers have spoken to), and it manifests itself in very real risks to safety, the undermining of dignity, discomfort in entry, exit and during travel, and compromises in the way taxis can be used, including lack of space for companions;
 - 5.3.3. it also manifests itself in tension and sometimes conflict between wheelchair users and drivers, and at times an unwillingness on the part of drivers to attempt to take wheelchair users as passengers at all;
 - 5.3.4. with the exception of Liverpool, it has not been addressed through the application of current anti-discrimination laws, despite such laws being on the statute book for 17 years – the case for a proactive regulatory approach is clear;
 - 5.3.5. the (commendable) policy intention behind the Commission's proposed national safety standards is that passengers' safety should not depend on where in the country a passenger uses a taxi or private hire vehicle, but if those standards do not ensure that vehicles are safe for disabled people, the policy intention will not be achieved in any meaningful way for this group of consumers;
 - 5.3.6. save for the national safety standards, there are no proposals at all to limit the discretion local licensing authorities have to set taxi licensing conditions

notwithstanding the risk, and in many places the reality, of that discretion being used in a way that perpetuates inequality.

- 5.4. The Commission acknowledges this substantive inequality in its consultation paper (e.g. at §§1.26, 11.7 and 11.25). We are also aware that the Commission has sought out the views of disabled people as part of its research. But the consultation ultimately suggests that the problems they experience with taxis cannot be addressed either through national safety standards or restrictions on local licensing authorities' discretion.
- 5.5. We disagree. Meaningful changes can be made at both a national and local level, which would be clear and easy to implement, and would make a real difference to ensuring equal access to taxi services. In particular these would include:
- i. Requiring all, or at least a significant proportion of, licensed taxis and private hire vehicles in each authority to be wheelchair accessible;
 - ii. Ensuring through a national safety standard that all licensed taxis and private hire vehicles designed to carry wheelchairs conform to the latest national standard for design and construction of wheelchair accessible vehicles, namely PAS 2012, published by the British Standards Institution;
 - iii. Locally, obliging licensing authorities to focus their minds on the specific needs of disabled people and to take steps positively to promote a range of suitable vehicles both as taxis, and as part of the private hire market, to meet those needs.
- 5.6. In the following paragraphs we set out, first, our view on the principles the Law Commission should apply to its review, followed by our perspective on the nature and extent of the inequality that is the product of the current regime (which is not apparent from the consultation report). We then discuss what the Commission suggests are barriers to effective reform and, finally, what such reform should entail, both nationally and locally.

Disability and taxi use

- 5.7. When it makes its final proposals to Parliament, the Commission should do its utmost to promote substantive equality between disabled and non-disabled people. Indeed, as a public authority, the Law Commission has a statutory duty under section 149 of the Equality Act 2010 to have due regard to the need to do just that. Substantive equality means, in the words of Sedley LJ in *Roads v. Central Trains Ltd.* [2004] EWCA Civ 1541 at [13] and [30]:

'access to a service as close as it is reasonably possible to get to the standard normally offered to the public at large

...[it] is not a minimalist policy of simply ensuring that some access is available to the disabled: it is so far as is reasonably practicable, to approximate the access enjoyed by disabled persons to that enjoyed by the rest of the public.'

- 5.8. Its promotion involves, for the purposes of section 149(3), considering the need to:

'(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.'

And, for the purposes of section 149(4), a recognition that:

'[t]he steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.'

- 5.9. The OFT's 2003 Report correctly identified disabled people as a key group of consumers, noting the much higher use of taxis by disabled people compared to non-disabled people. According to the OFT, taxis and private hire vehicles are used 67% more frequently by disabled people than by non-disabled people: see paragraphs 5.37-5.38. The OFT also concluded that:

'As disabled people have a range of different requirements, it is important that there is a range of taxi vehicles that are able to meet their varied needs' [paragraph 7.38].

- 5.10. Promotion of a range of taxi and private hire vehicles to meet a range of needs is a principle of fundamental importance. It is underscored in the Department of Transport's Best Practice Guidance on Taxi and Private Hire Vehicle Licensing, the 2010 edition of which states:

'27. Normally, the best practice is for local licensing authorities to adopt the principle of specifying as many different types of vehicle as possible. Indeed, local authorities might usefully set down a range of general criteria, leaving it open to the taxi and PHV trades to put forward vehicles of their own choice which can be shown to meet those criteria. In that way there can be flexibility for new vehicle types to be readily taken into account.

28. It is suggested that local licensing authorities should give very careful consideration to a policy which automatically rules out particular types of vehicle or prescribes only one type or a small number of types of vehicle.'

- 5.11. This principle is also acknowledged in your consultation report at §11.13:

'It is generally recognised that it would be impossible to design a vehicle suited to the needs of all disabled people given the wide and disparate variety of needs present within the disabled community. It is perhaps more important to consider the range of vehicles available in an area, in order that disabled passengers can exercise choice over how they travel.'

- 5.12. The point is, in a sense, an obvious one. However, a comparison of the different internal measurements of the leading wheelchair accessible taxis, carried out by STATUS using PAS 2012 methodology, demonstrates that it is only by having a range of taxis that a licensing authority can ensure that vehicles are available to accommodate a range of wheelchair users, depending on the width, length or height of their particular wheelchair³.

The problem

- 5.13. Many licensing authorities around the country have made significant progress towards improving equality through accessibility, by making requirements for accessible vehicles and requiring adaptations (at least for taxis) and by adopting taxi licensing conditions which encourage a diverse range of vehicles to meet different needs.
- 5.14. Unfortunately, this has not been the case with all authorities. This problem manifests itself in two ways:
- 5.14.1. First, in some authorities there is no requirement for vehicles licensed as taxis to be wheelchair accessible in any way. Wheelchair users' access to taxis is therefore entirely dependent on the decisions of individual licensees' on what vehicle they will buy or use. Deregulation in these places allows driver choice to trump disabled consumer's interests and, given the higher cost of wheelchair accessible vehicles, there is no economic incentive for individual owner/drivers to make wheelchair accessible vehicles available. That cannot be right.
- 5.14.2. At the other end of the spectrum, some other licensing authorities appear to consider their task is to choose 'the best' vehicle, or vehicles, i.e. a 'one (or two) size(s) fits all approach', rather than establishing proportionate and justified safety regulations and then licensing as many compliant vehicles as possible to increase choice and competition.
- 5.15. The clearest manifestation of the latter problem is London's taxi licensing policy. In 2003 Transport for London (TfL) embarked on a review of the London Conditions of Fitness and examined a number of vehicles used as taxis elsewhere. Much of its work focused on identifying what were perceived to be the comparative merits of different taxis and reaching a utilitarian view on which was likely to be attractive to most users, rather than giving consideration to the benefits that would result from a wider range of vehicles being available. In 2005, London decided to maintain its existing conditions, resulting in only one vehicle being permitted to be used as a taxi in London, until the conditions were relaxed in 2007 to allow the introduction of a Mercedes vehicle.
- 5.16. On 2 December 2009, prompted by the judgment in the *Lunt* case, TfL announced that it would be speaking to disability groups to seek their views on the current accessibility of London's taxis, particularly around the problems experienced by users of larger wheelchairs. However, at the end of May 2010 it issued a document entitled 'London Taxi Accessibility Wheelchair User Research'. This noted that the disability groups TfL spoke to 'claimed' that disabled people would like the opportunity to hail taxis on the street but consider they are not accessible, not least because they cannot be secured for safe travel, and that RADAR and Inclusion London had a clear view that equal access is frustrated because a wider range of

³ See Appendix A12

taxis is not licensed in London. TfL discounted these views, however, on the basis that 'no statistical evidence was presented or identified' to support these 'claims' and that what wheelchair users had to say was therefore 'anecdotal'.

- 5.17. On this basis TfL concluded it had 'no clear idea' (its own words) whether there was an equality problem arising out the limited range of taxis licensed in London. The decision was therefore made not to review the existing conditions, despite the clear representations from groups representing disabled people.
- 5.18. These conditions are mirrored in other licensing authorities elsewhere. The well-known effect is to prevent all but two currently-manufactured models of taxis being licensed. There is no real range and so very little choice: wheelchair users in those areas who cannot travel safely in either of those two vehicles cannot safely use taxis at all.

Scale and nature of the problem

- 5.19. Choice is important to most disabled taxi and private hire vehicle consumers, but a lack of choice has a particularly severe impact on wheelchair users.
- 5.20. There are two groups to consider in particular: those for whom safe travel in many taxis is impossible, and those for whom it is very difficult, given the dimensions of their chairs:

5.20.1. The direct effects for those who cannot be turned and secured in certain models of taxi, such as LTI TX models and Metrocabs, include:

- i. having to make an invidious choice of travelling unsafely, unsecured in a sideways facing or angled position or not at all (a choice no other taxi or car users are forced to make);⁴
- ii. exposure to the risk, and the fear, of serious injury and possibly even fatal injuries in extreme cases (Mrs Lunt and Mrs Price gave examples to the Court in their evidence also at appendices 13 and 14 of this response and cf. the tragic case of Ramzan Begum, discussed at §1.26 of the consultation report);
- iii. acute discomfort; and
- iv. undermining of the dignity of wheelchair-using passengers forced to travel in this manner because of their disability, when others are not.

5.20.2. For those with wheelchairs that can be turned and secured, but with difficulty, the lack of a choice of a more accessible vehicle means:

- i. discomfort and inconvenience as the wheelchair is being turned into a rearward facing position (often involving the chair being tipped up on two wheels and/or forcibly shoved sideways⁵); and

⁴ Indeed, sideways-facing seats are banned under EU law in the class of passenger vehicles that include taxis: see Directive 2005/39/EC amending Directive 74/408/EEC relating to motor vehicles' seats, anchorages and head restraints, and under regulation 5 of the Motor Vehicles (Wearing of Seat Belts) Regulations 1993, as amended, every person riding in a front or rear seat of a motor vehicle must wear a seat belt where one is available.

⁵ See Appendix A6 – HSE report on loading and unloading of wheelchairs in taxis.

- ii. an undermining of dignity (for example, drivers will often have to stoop to get the necessary leverage to turn the chair and manoeuvre it into position, during which time they will be at the waist level of the passenger; something which the witness Mrs Price explained in the *Lunt* case was humiliating for her and necessitated her wearing trousers – see Appendix A14).

5.20.3. There are also clear indirect effects for both groups:

- i. when a wheelchair cannot easily be accommodated in a taxi, or is forced into a sideways facing or angled position because of the vehicle's dimensions, the wheelchair user is very unlikely to be able to travel with more than one companion - a clear disadvantage which no non-wheelchair using passenger will experience;
- ii. some drivers are further dis-incentivised from picking up wheelchair users when hailed in the street - a practice which, although directly discriminatory and thus unlawful, is exceptionally difficult to challenge (we know of no case being brought, less still succeeding); and
- iii. tension can arise between drivers and wheelchair using passengers over questions of how they should be secured and, if they can, the best means to achieve that. For example, drivers may be concerned that carrying a passenger in an unsafe manner may put them in breach of the conditions of their licence.

5.21. The number of people affected is significant. The NHS estimates that there are 1.2 million wheelchair users resident in the UK⁶. Department for Transport research has also been undertaken into the dimensions of occupied wheelchairs in the UK.⁷ Combining this data suggests that:

- 58.2% of wheelchair users nationally use larger wheelchairs with a length of between 1,000mm and 1,200mm, i.e. c. 700,000 people; and
- 15.3% of wheelchair users nationally use wheelchairs that are larger still, with a length of 1200mm or more, i.e. c. 184,000 people.

5.22. These proportions can also be applied to particular licensing authorities to produce a rough estimate of the numbers of people likely to be affected by policies that lead to a very limited range of licensed vehicles being licensed. For example, of London's population of c. 8.1m, around 170,000 people are likely to be wheelchair users. Around 125,000 of them will be users of larger wheelchairs and about 26,000 of these will be users of particularly large wheelchairs.⁸

5.23. In London and the remaining local authorities that apply the London conditions of fitness and therefore permit only two types of taxi to operate, the taxi vehicles simply cannot meet the basic needs of many such wheelchair users. Although all are referred to as 'wheelchair accessible' taxis, it is impossible or unreasonably difficult for many average-sized wheelchairs, and especially larger chairs, to be turned around to be secured properly and to face the rear of the vehicle for safe travelling.

⁶http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4103389

⁷ CEDS, for DfT, Survey of Occupied Wheelchairs, 2005.

⁸ Note, this data is unlikely to take account of wheelchair users from outside the UK visiting London. Nor will it take account of people with two wheelchairs with different dimensions (which is not uncommon).

This is clear from Lowland Market Research's 2008 'Wheelchair User Experience Taxi Survey' which was referred to by the Court in the *Lunt* case. That survey found that in 96% of journeys in taxis in Manchester and London, the wheelchair user (of an average, "reference-sized" wheelchair) was not properly secured for travel.

- 5.24. There is also a mass of anecdotal evidence from disabled people and representative organisations that reflects the Lowland research findings. The Commission has noted this in its consultation report, at §1.26:

'The current legal framework has also been said to fail disabled passengers. In February 2009 a 14-year-old Birmingham girl died during a taxi ride home because her wheelchair was not properly secured. Disability groups have told us that most disabled persons have to travel without proper restraints on a daily basis. This is not only unsafe, but uncomfortable and at times undignified. These problems do not only affect wheelchair users...'

The statistics above give a sense of the huge scale of the problem. It would be remarkable if the ultimate product of the Commission's work lacked any proposals to address this issue.

- 5.25. It is critical that the Law Commission, and in turn Parliament when it comes to consider recommendations for reform, appreciates the multiple effects of tens of thousands of wheelchair users being forced, through the lack of any real choice between models of taxis and private hire vehicles, to use those in which their wheelchairs cannot be secured for safe travel, or to make do with some other, potentially far less convenient, means of making their journey.

Licensing authorities' discretion

- 5.26. The UK has had equality and disability discrimination legislation for 17 years which has had, as a specific aim, parity of access to public transport as between disabled and non-disabled people. Anything short of that must be justified or it will be unlawful.
- 5.27. Most importantly, as discussed in the *Lunt* judgment, public authorities have a duty to make reasonable adjustments to any policies and practices that make it impossible or unreasonably difficult for disabled people to benefit from them, unless adequate justification for those policies can be demonstrated (the duty is now found in sections 19 and 20 of the 2010 Equality Act).
- 5.28. As regards taxis and private hire vehicles, this legislation has had only limited effects. As noted above, some authorities do not set any standard of wheelchair accessibility for any part their local licensed fleet. Whether such policies are lawful or not, there can be no question that they perpetuate inequality of access to taxi services. Moreover ten UK licensing authorities, including two of the largest, maintain policies that are intended to ensure a universally accessible fleet, but which in practice mean that only two models of taxi can be licensed locally. Some authorities have not reviewed their policies at all in recent years, despite the *Lunt* judgment. Others have taken the view that the principles discussed by the Court only applied in Liverpool but not more widely.
- 5.29. The *Lunt* case is a notable exception to the broad rule that local licensing authorities can with impunity exercise their discretion on taxi licensing in a way that perpetuates

substantive inequality. However, ten such authorities, including London, continue to do so. Mrs Lunt is the only disabled person to have been in a position and of sufficient determination to bring a challenge to such a policy. It would be wrong in principle for the Commission to expect other individual disabled people to challenge local authorities on a case-by-case basis to secure licensing policies that take proper account of their needs and interests. For the overwhelming majority of disabled people that will simply be impractical for reasons of cost. Neither is it realistic or appropriate to expect drivers or even manufacturers to do so.

- 5.30. If no adequate proposals for reform are made and implemented, disabled people will, as now, continue to lobby for changes in local policy. As now, changes are unlikely to be made as a result of those efforts alone. The only realistic solution is regulatory intervention intended to promote the very particular needs of disabled people.
- 5.31. The consultation report suggests that it is very difficult to identify the means to achieve such reform. We disagree, for the reasons explained below.

Alleged barriers to reform

- 5.32. As you are aware, we attended the meeting between Commission staff and local disability campaigners in Liverpool in June 2012. At that meeting two key points were raised by Commission officials as reasons for thinking that it is either unnecessary or impractical to attempt to use law reform to improve the situation for disabled people in those areas where there is a limited range of less accessible vehicles. These were:
- i. that disabled people have the alternative of using private hire services, which (it was suggested) have responded effectively to meeting the needs of disabled passengers; and
 - ii. that having a wider mix of vehicles would make little difference in practice, because a passenger is generally forced (or expected) to take the 'first cab on the rank', or hail the nearest cab.
- 5.33. We have reflected on these points and carried out some further research. We do not consider that either reason justifies a lack of regulatory intervention.
- 5.34. First, in relation to private hire services, it is simply wrong to say, in effect, that it does not matter that disabled cannot use licensed taxis, because they can make do with private hire taxis. This "separate provision" approach is the opposite of genuine equality. For many people, private hire taxis are less convenient because they have to be pre-booked. Being able to go outside to a nearby rank and board a waiting cab is an important convenience, indeed the very reason we have licensed taxi ranks in city centres, airports, shopping malls and at hospitals. Moreover, in some cities, such as London, private hire vehicles are not permitted to use bus lanes, and drivers are generally less knowledgeable about the fastest routes to a particular destination.
- 5.35. At any rate, it is not the case that a disabled passenger can readily call a private hire firm and obtain a wheelchair accessible taxi on demand. Only 2.4% of private hire vehicles are wheelchair accessible, compared to 58.4% of taxis in England & Wales⁹. In so far as the Commission has been told that the private hire trade has responded well to the needs of disabled passengers, that is simply wrong. This was confirmed, anecdotally, by the campaigners in Liverpool, who dismissed the idea that it was

⁹ See Appendix A8

typically possible, even in a large city, to order a wheelchair-accessible private hire vehicle at short notice.

- 5.36. That anecdotal evidence is confirmed by independent research we commissioned from Vision One Research Limited, who contacted 100 private hire taxi companies across Manchester and London to ascertain whether they had wheelchair accessible taxis and, if so, how long the wait would be to book one, and to compare that against waiting times for non-wheelchair accessible taxis.¹⁰ This showed that:
- 5.36.1. 24% of companies claimed they could offer a wheelchair accessible service, although the position was inconsistent in a number of cases, with 6% of those companies giving a different answer in response to enquiries made at a different time;
- 5.36.2. More than half of the firms claiming to offer a wheelchair accessible vehicle could not actually fulfil this on demand. On average, only 11% of the firms contacted in round 1 could provide a wheelchair accessible vehicle at the time of the call, dropping to just 7% in a second round of calls. In each case 11%-12% of the firms which had an accessible vehicle said that it wasn't available and/or had to be pre-booked somewhere between 2 and 36 hours in advance;
- 5.36.3. Even for the small number of firms who were able to offer an on-demand booking, the average waiting time for a wheelchair accessible cab was more than double that for a standard vehicle (27 minutes, compared with 12 minutes). Average waiting times for Manchester were 10 minutes for standard, 19 for accessible and, in London, 15 for standard and 35 for accessible.
- 5.37. Secondly, in relation to hailing cabs on the street or at ranks, it is – again – not the case that this represents a real barrier to improving access for disabled people by increasing the range of vehicles available.
- 5.38. As far as taxi ranks are concerned, a survey of local licensing officers has confirmed that there is no legitimate objection to a disabled passenger selecting a vehicle on the rank best suited to their needs. The responses are set out in full in A1. They include the following:

*'As there are many different types of disability, different vehicles can present different problems for different disabled customers. This can include health and safety considerations and therefore customers should have the choice of which vehicle they wish to use regardless of social convention and norms.'*¹¹

*'If the first vehicle on the rank is one that cannot accommodate a particular wheelchair with ease or safely, (i.e. the passenger cannot be manoeuvred into a safe position), or the customer has a preference for a particular type of vehicle, then the customer can choose to use the preferred vehicle, wherever it is positioned on the rank.'*¹²

¹⁰ See Appendix A7

¹¹ Appendix A1, Rushmoor Council

¹² Appendix A1, Northampton Borough Council

*'It would be preposterous to think that a wheelchair user who may only be able to use a certain type of vehicle would have to wait, potentially in poor weather, for a car to become available on a rank when it is clearly already available 2 or 3 cars down.'*¹³

- 5.39. A similar survey of local trade representatives reveals the same picture.¹⁴ For example:

*'We as taxi minded people know that certain types of wheelchairs can only be transported in the larger type vehicles due to their size and floor space availability, which in turn allows the wheelchair to be secured properly for safe transportation.'*¹⁵;

*'Our drivers, of course, have first hand experience of the public's varying requirements, and have no problem directing the passenger to the most appropriate vehicle, even if that should be a long way back on the rank. This is, as you can imagine, a regular occurrence, perhaps several times a day, and is therefore routine. It's no different to a party of six requiring a six-seater cab; no-one would dream of making them wait until a six-seater gets into 'pole position'!*¹⁶;

*The majority of taxi drivers (and Private Hire) are fully aware that no disability is the same as another, however similar, therefore are quite understanding when a customer would not necessarily take the first available cab. One only hopes that some day the government (in practice not theory) fully understands and complies with the fact that every individual disabled customer should be able to choose a suitable cab or wheelchair accessible vehicle of their choice'*¹⁷.

- 5.40. As far as street hailing is concerned, technological developments now mean that a disabled, or indeed non-disabled, passenger can hail a nearby taxi and choose to have a wheelchair-accessible taxi (where there is a mixed fleet), or even a particular model of vehicle, e.g. in London choosing between an LTI taxi and a Mercedes depending on which better suits their needs.
- 5.41. The market-leading app, "Hailo" has been adopted by several thousand of drivers in London and is now being rolled-out across the country, and indeed in the US.¹⁸ It enables passengers to hail a nearby cab using an app on their smartphone. Users can set their preferences to hail only wheelchair-accessible cabs.¹⁹ The app also incorporates a feature which allows a passenger to select a particular model of taxi: in London, for example, one can choose a six seater Mercedes taxi or the LTI (5 seater) taxi. The relevant button on the app has two icons that clearly represent the TX model and the Mercedes.²⁰

¹³ Appendix A1, Newcastle City Council

¹⁴ See Appendix A2

¹⁵ Appendix A2, Glasgow Taxis

¹⁶ Worthing Taxi Owners Association

¹⁷ Medway Taxi Owners Association

¹⁸ www.hailocab.com

¹⁹ <http://support.hailocab.com/customer/portal/articles/713201-i-m-a-wheelchair-user-can-i-display-this-in-my-preferences-> See the screenshot here: <https://hailocab.com/images/press/accessible/accessible-03.png>

²⁰ See <http://support.hailocab.com/customer/portal/articles/217145-can-i-request-a-specific-model-or-size->

- 5.42. The emergence of this and other similar apps has been identified as a major benefit for disabled cab users, particularly in a city such as New York where only a proportion of taxis are wheelchair accessible.²¹
- 5.43. In our view, this is how the majority of cabs will be hailed in the street in the future, allowing passengers to express preferences about the kind of taxi they need, or just taking the nearest one, as now and allowing them to stay at their desk, or inside a building, until their cab is right outside. Disabled people especially can be expected to make use of apps like these rather than wait for a taxi in the street, or even at a rank (with response times typically considerably shorter than waiting for a traditionally pre-booked hire).

Driver awareness training

- 5.44. We welcome proposals for driver awareness training in the proposed national safety standards, but do not consider that this will make a significant difference; it is already mandatory in many licensing authorities and there is no evidence that the position of disabled people living in those areas is significantly better than elsewhere.
- 5.45. Most taxi drivers would have no objection to carrying a wheelchair user if it were possible for such passengers to access, and be properly secured in, taxis without difficulty. However, the fundamental problem is not one of driver awareness or practices (a contention that formed a significant part of Liverpool City Council's defence of the *Lunt* case). Rather, it concerns the limitations of the only vehicles available in some areas. The problem is described in Appendix A6 as follows:

'The wheelchair then had to be manoeuvred into the travelling position so that the safety belt could be fastened. This was an awkward manoeuvre that required the taxi driver to push on the left handle of the wheelchair and pull back on the right handle simultaneously. The floor of the TX1 taxi, which was raised up at the rear to accommodate the rear wheel drive chassis, also added to the complexity of the manoeuvre [which] required the driver to adopt an awkward posture, reaching out about 70 cm across the back of the chair while twisting the trunk. This awkward posture would limit the amount of force that a driver could apply safely and increase the risk of musculoskeletal injury. When manoeuvring the wheelchair out of the travelling position the driver could use their right foot to apply additional force to turn the chair.'

- 5.46. Improved access to disability awareness training would no doubt be useful in those areas where it is not already mandatory, but it is not a remedy for the physical limitations of some taxi vehicles, such as those where a disabled person cannot communicate with the driver or move into the correct position for travel.

Making a difference

- 5.47. We offer two main proposals for reform which will promote substantive equality as between disabled and non-disabled taxi and private hire users. Each is driven by the assumption that any new legislative framework will aim to ensure that taxi regulation:

²¹ See, e.g. <http://disabilityhorizons.com/hailo-ing-a-cab> and <http://www.capitalnewyork.com/article/politics/2012/05/5858996/entrepreneur-pitches-app-solution-new-yorks-accessible-taxi-problem>

- i. imposes the same, proportionate safety standards across the country to ensure passenger safety (including for wheelchair users), compatibly with EU law, while avoiding costly and unnecessary local differences;
- ii. precludes unnecessary barriers to entry, such as regulatory conditions that limit vehicle choice to a very small range of vehicles;
- iii. promotes wider availability of taxis better able to meet the needs of disabled passengers and others with particular needs (the aim being taxi and private hire fleets comprising a range of vehicles which meet basic standards from which consumers can choose those best suited to their needs).

First proposal – safety for wheelchair occupants

- 5.48. Given that a key problem for wheelchair users is the inability to travel safely in many of the vehicles licensed throughout the UK, we consider that this must be addressed in national safety standards for vehicle design. We agree with the Commission that safety standards should apply to both the taxi and private hire markets. We consider that safety standards are not a matter suitable for local interpretation. Safe should mean equally safe, wherever you reside or travel across England and Wales.
- 5.49. With regard to safety for wheelchair-using passengers it makes sense to rely on the Publicly Available Standard published by the British Standards Institution in PAS 2012-1:2012 - Specification for M1 vehicles for the carriage of one or more passengers seated in wheelchairs. These are the product of detailed independent work, and drafted so that they can be adopted anywhere in the UK. All vehicles licensed to carry members of the public seated in wheelchairs – whether taxis or private hire – should comply with them.
- 5.50. Plainly, such standards could not be adopted across the board immediately. We would recommend a staged approach, where the standards would first be applied to all newly licensed taxis and private hire vehicles. Cut off dates, looking a number of years ahead, could be set for whole fleets (or at least a substantial part of every fleet) to be compliant.

Second proposal – equality for disabled passengers

- 5.51. Our second proposal is intended to instigate positive action to address the accessibility problems acknowledged in your consultation paper and so to promote equality between disabled and non-disabled people.
- 5.52. As the availability of a range of taxis to meet different needs is necessary to have that effect, local licensing authorities should not be empowered to adopt licensing policies that narrowly restrict the range of vehicles being licensed unless that can be justified as a necessary and proportionate means of securing passenger safety. In short, there will be a legislative presumption, to complement existing Department for Transport guidance, that local authorities should licence a range of vehicles to meet differing needs unless that is outweighed by passenger safety considerations.
- 5.53. Legislation would need to provide that:
- i. when licensing authorities' discretion to set or review taxi licensing policy or to licence any particular vehicle is exercised, the need to ensure that there is

an adequate range of taxis available to meet the differing needs of taxi users in the locality will be a mandatory relevant consideration; and

- ii. if the effect of a decision on licensing policy or an individual application would be to restrict the range of taxis available to meet the needs of taxi users in the locality, the decision to apply such a policy or refuse the application could only be made on the grounds that it was a necessary and proportionate means of securing the safety of passengers or drivers.

5.54. We would be happy to propose a more detailed form of wording for the Law Commission's draft bill if it wishes to consider this proposal further.

Conclusion on equality issues

5.55. The evidence given by Mrs Lunt to the Administrative Court, which was accepted, was that the campaign for a wider range of taxis to be made available in Liverpool, and her own case, were fundamentally:

'about people having a choice about which taxi they wish to use. This would mean their situation would be much closer to that of other taxi users in Liverpool who are not disabled and who take it for granted – quite rightly – that they should travel securely and safely and, when they want to, that they can travel with more than one friend, colleague or family member. We are not seeking special dispensations, favours or charity from anyone, just fair and equal treatment and the chance to travel in a more dignified and safe way.'

5.56. The Commission's officials will recall that, when they met with Mrs Lunt and other disability campaigners in June 2012, she was emphatic that the change in licensing policy her case had brought about had produced that choice, and real progress towards substantive equality had been brought about as a result. Her comments were echoed by Sir Bert Massie CBE, one of the UK's authorities on disability equality issues, who also stressed that the work started in the 1980s to improve disabled persons' access to taxis could and should be improved upon now, thirty years later.

5.57. Given that the current regulatory regime demonstrably perpetuates inequality affecting thousands of people on a daily basis, it would be deeply disappointing if the Commission did not put forward positive proposals to address the issues.

6. EU Law

- 6.1. The LC Consultation paper makes reference to case law considering the impact of EU law on the regulation of taxi by local authorities, in particular *R v Wirral BC Ex p Wirral Licensed Taxi Owners Association* [1983] CMLR 150. Paragraphs 4.65-4.66 are as follows:

“LOCAL CONDITIONS AND COMPATIBILITY WITH EUROPEAN LAW

4.65 In R v Wirral BC Ex p Wirral Licensed Taxi Owners Association, the court considered the compatibility with European law of imposing restrictions on the types of vehicles which may be used as taxis. The case arose when the Metropolitan Borough of Wirral considered passing a resolution under which all taxis operating in the district would have to be the London-style hackney carriage, manufactured by one British manufacturer.

4.66 The authority received a warning from the Home Office that this would be contrary to European law as it would prevent manufacturers from other European countries selling taxis in the Wirral. In the light of this advice, the council adopted a more generally worded resolution which described the London style of taxi and excluded other types of car, but which enabled any willing European manufacturer to make and sell the vehicles to the Wirral. The court found that whilst the earlier resolution would have breached European law, the wider wording was acceptable.”

- 6.2. Unfortunately, this does not accurately represent the state of the law. In particular, the *Wirral* case referred has been held to be no longer good law in the light of the jurisprudence of the European Court of Justice.
- 6.3. It is important that this incorrect statement of law set out in the consultation paper is corrected by the Commission in its final report. If left uncorrected it is liable to mislead authorities into acting in breach of EU law. Contrary to the suggestion that “*a more generally worded resolution which described the London style of taxi and excluded other types of car*” would be lawful under EU law, the High Court has found the opposite to be true.
- 6.4. In *R (Lunt) v. Liverpool City Council* [2009] EWHC 2356 (Admin) the defendant local authority relied on *R v Metropolitan Borough Council of the Wirral* [1983] 3 CMLR 150 for the proposition that a neutrally-worded vehicle specification criteria such as the London Conditions of Fitness did not engage Article 34 TFEU. That submission was rejected, with Blake J. holding (at [65]) that:

“...the previous indications of the UK case law (namely the first instance case of R v Metropolitan Borough Council of the Wirral [1983] 3 CMLR 150, and a decision of the Court of Appeal in Quietlynn v Southend-on-Sea District Council [1990] 3 All ER 207) that were formerly relied upon by the defendants in their pleadings and skeleton argument can no longer be considered relevant in the light of the development of the jurisprudence of the European Court of Justice.”

- 6.5. The correct position under EU law is as follows:
- 6.5.1. All trading rules which are capable of hindering, directly or indirectly, actually or potentially, intra-EU trade are to be considered as measures having an effect equivalent to quantitative restrictions (Case 8/74 *Dassonville* [1974] ECR 837);
- 6.5.2. In the absence of harmonisation of legislation, obstacles to the free movement of goods which are the consequence of applying, to goods coming from other Member States where they are lawfully manufactured and marketed, rules that lay down requirements to be met by such goods (such as those relating to designation, form, size, weight, composition, presentation, labelling, packaging) constitute measures of equivalent effect prohibited by Article 34 TFEU. This is so even if those rules apply without distinction to all products, unless their application can be justified by a public-interest objective taking precedence over the free movement of goods (Case 120/78 *Rewe-Zentral (Cassis de Dijon)* [1979] ECR 649);
- 6.5.3. The limited exception identified in *Keck and Mithouard* (C-267 & 268/91) [1993] ECR I-6097 relates only to “national provisions restricting or prohibiting certain selling arrangements” (*Keck*, para. 15) *Keck* related to a French law prohibiting the resale of goods at a loss. It has since been applied to cases concerning, for example, rules on opening hours and advertising. It does not apply to “product requirements”.
- 6.6. These points are made by Lord Bingham in *R (Countryside Alliance) v Attorney General* [2008] 1 AC 719 at [27]-[28] and are emphasised in more recent judgments of the ECJ referred to in the *Lunt* case, in particular Case C-142/05 *Åklagaron v Mickelsson and Roos* [2009] ECR I-4273 and Case C-110/05 *Commission v Italy* [2009] ECR I-519.
- 6.7. They are also set out very clearly and helpfully in the EU Commission’s Guide to the application of Treaty provisions governing the free movement of goods.²² In particular, that document makes it clear (at §3.1.6) that:
- ‘There is no de minimis principle in relation to the articles concerning the free movement of goods. According to long-established case-law, a national measure does not fall outside the scope of the prohibition in Articles 34–35 TFEU merely because the hindrance which it creates is slight and because it is possible for products to be marketed in other ways (See Joined Cases 177/82 and 178/82 Van de Haar [1984] ECR 1797; Case 269/83 Commission v France [1985] ECR 837; Case 103/84 Commission v Italy [1986] ECR 1759.)’*
- 6.8. Therefore a state measure can constitute a prohibited measure having equivalent effect even if:
- it is of relatively minor economic significance;
 - it is only applicable on a very limited geographical part of the national territory (Case C-67/97 *Bluhme* [1998] ECR I-8033);
 - it only affects a limited number of imports/exports or a limited number of economic operators.”

²² http://ec.europa.eu/enterprise/policies/single-market-goods/files/goods/docs/art34-36/new_guide_en.pdf

- 6.9. In short, requirements imposed by a local authority such as that a taxi should have a particular turning circle, particular types of door, a particular floor height etc. fall within the prohibition in Article 34 TFEU because they are capable of hindering, directly or indirectly, actually or potentially, the free movement of vehicles lawfully manufactured in other Member States.
- 6.10. It makes no difference that the requirement only applies to a small part of the country, and it also makes no difference whether it is possible for manufacturers to produce a vehicle in accordance with the relevant specification: it is the requirement to do so that amounts to a potential hindrance on the free movement of goods.
- 6.11. Thus, as a matter of law, all aspects of a local taxi vehicle specification which require manufacturers to make adjustments to vehicles that are otherwise lawfully used as taxis elsewhere must be justified in accordance with the strict requirements of EU law. The requirements for justification are again helpfully summarised in the European Commission's guidance document, at §6.1 (footnotes omitted):

'Article 36 TFEU lists the defences that could be used by Member States to justify national measures that impede cross-border trade:

"The provisions of Articles 34 to 35 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property".

The case-law of the Court additionally provides for so-called mandatory requirements (e.g. environmental protection) on which a Member State may also rely to defend national measures.

The Court of Justice interprets narrowly the list of derogations in Article 36 TFEU, which all relate to non-economic interests. Moreover, any measure must respect the principle of proportionality. The burden of proof in justifying the measures adopted according to Article 36 TFEU lies with the Member State...

Even if a measure is justifiable under one of the Article 36 TFEU derogations, it must not 'constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States'...As the Court has stated, 'the function of the second sentence of Article [36] is to prevent restrictions on trade based on the grounds mentioned in the first sentence from being diverted from their proper purpose and used in such a way as to create discrimination in respect of goods originating in other Member States or indirectly to protect certain national products', i.e. to adopt protectionist measures.'

- 6.12. As the High Court found in the *Lunt* case, referring to the EU Commission guidance at paragraphs [77-80] of the judgment, local licensing requirements such as for a tight turning circle must therefore be clearly justified by evidence, must be shown to be in pursuit of a legitimate end such as public safety, and must be "proportionate and no more intrusive than is needed to give effect to the legitimate end".

- 6.13. As the Judge went on to observe at [81], there are a number of specific considerations that must be taken into account by any local authority seeking to justify a local licensing condition that excludes certain types of vehicle:

'The fact that the E7 is used as a public hire taxi extensively in the UK without reported incident is a compelling source of relevant evidence that would have to be addressed....Of course the turning circle is useful for the avoidance of three point turns in narrow streets where someone seeks to specifically hail a passing taxi. However, where a particular assessment has been made as to the safety consideration of this issue, as it has in the Edinburgh study, the Liverpool Council would have to consider whether it has a cogent basis for disagreeing with such evidence and why.'

Local knowledge is a well recognised virtue of local democracy, where decision-makers reach decisions on matters of broad policy: generally a political decision. It is not to be equated with expertise in a specialist area of assessment. The fact that other Councils have different policies as to which vehicles types are authorised does not by itself suggest that Liverpool is wrong in maintaining its policy. If, however, the issue is safety, then the practice and experience of other authorities over a reasonable period of time cannot be ignored. It is impermissible to speculate if the answer to the relevant inquiry can be ascertained by demonstrated experience.'

What should weigh in the balance on any discussion of justification on safety grounds is the clear safety benefits for secure travel for all wheelchair users, irrespective of the dimensions of their chairs, that can be apparently accommodated in the E7. It is common ground that travelling unsecured sideways in a cab is unacceptable. The introduction of the E7 alongside but not in replacement of the TX is likely to make a substantial contribution to eliminating such practices.'

- 6.14. In describing the turning circle restriction as an example of a “quality standard” and a “higher standard” (para. 15.10), and the London conditions of fitness, specifically including the turning circle restriction, as an “eminent example” of “where local decision-making for taxis would be valuable” (15.26), the Law Commission’s consultation ignores the finding of the High Court that such a restriction can only be justified on the basis of cogent evidence relating, e.g. to public safety, and must be demonstrated to be proportionate.
- 6.15. It is also troubling that the consultation paper expresses the provisional view (§ 15.27) that:

“licensing authorities should retain the discretion to impose such requirements, provided they do not fall below national standards, and subject to the constraints of general public law principles and judicial review’

without any reference to compliance with EU law or the fact that the turning circle requirement was specifically found to be unjustified under EU law in Liverpool.

- 6.16. Although the consultation document contains references to *Lunt* in connection with disability discrimination law, it makes no reference to that judgment in connection with EU law, although it is clearly an important case on EU free movement law, having been reported in the European Law Reports at [2010] Eu LR 203 and the Common Market Law Reports at [2010] 1 CMLR 14.
- 6.17. It is surprising that the Law Commission would have chosen to make reference to a first instance case from 1982, which has been held no longer to be good law, rather than the *Lunt* judgment, which is obviously the most recent and authoritative case directly on the interaction between local taxi licensing conditions and EU law. The consultation document misstates the law and so is potentially very misleading in this respect.

B. Detailed Comments

Para	Page	Consultation	Response
Chapter 1		Introduction	
1.7	1	Our terms of reference require us to give due regard to the potential advantages of deregulation. This does not require us to blindly pursue deregulation at all costs. Rather, it means that we must look at each element of the existing regulatory system to ensure that it can be justified as necessary, and that it is structured in the right way to accomplish its supposed ends.	We support this approach and the manner in which it is described. It is important that this approach is applied consistently in assessing all aspects of the relevant law. At present no proposals are put forward to deal with disproportionate or unjustified regulation on vehicle type and design.
1.8	2	. . it is not possible to simplify and modernise the law regulating an economic activity such as the taxi and private hire markets without considering what the law is there to do. We have to be clear why the law is doing what it is doing to be able to improve it and to better achieve those ends.	This is another very important point, especially as there are clear examples of regulation ostensibly for one purpose in fact achieving different ends.
1.10	2	Hailing and ranking, however, cannot operate in a normal competitive way, because of the nature of the transaction. In each case, the consumer, at the actual moment they engage the taxi, is in practice facing a monopoly supplier. We therefore see the logic in higher levels of regulation of taxis, both in relation to price and quality.	We agree that these transactions are distinctive. However, this does not mean that no variation can be achieved. For example, it is commonly accepted that a disabled person may select a vehicle on the rank more appropriate to their needs, rather than take the first cab in line (See Appendices A1 and A2.) Moreover, technological innovations such as the app “Hailo” now allow consumers to hail a nearby cab while expressing a preference for a particular type or size of vehicle. Quality is a word widely used and open to wide interpretation. Matters of vehicle condition and safety, for example, will rightly be the subject of public scrutiny. Judging ‘quality’

			between different products, however, is something for the competitive market to decide.
1.11	2	The overall effect is of a moderate reform programme, which retains much of the existing structure of regulation, while seeking to improve and simplify it.	Moderation may be deemed a virtue but the goal of improving the law will not be met if major issues affecting many thousands of people, such as distorted competition in the cab supply market and the inability of disabled people to travel safely in taxis, are not proactively addressed.
1.12	2	There have been a number of calls for a so-called one-tier system, in which there is a unified category of vehicle doing all (or most) of the same work – pre-booked, hailing and ranking. We accept that the distinction is not well understood by the public, and that this provides an argument for a single tier. But our provisional view is that this would be disadvantageous. It would mean either that the reasonably competitive pre-booked market would be over-regulated; or that the hailing and ranking markets would be under-regulated.	On balance, we agree with this conclusion. However, this does not mean that there is no need for better regulation in the private hire market or that there is no need to reduce unnecessary over-regulation on the taxi market.
1.13	2	Secondly, we provisionally propose only moderate changes to the regulation of taxis. We suggest retaining the local link with the setting of taxi conditions and fare regulation, licensing and enforcement.	Please see our comment at 1.11. Fare regulation, licensing and enforcement may be suitable for regulation at a local level. It is not clear why that should be the case for “taxi conditions” when one is talking about particular design or safety features of taxi vehicles. Such local regulation tends to lead to the emergence of many different, sometimes neighbouring, authorities with quite different vehicle conditions, creating higher barriers to entry and additional costs. Often such regulation is a factor of local preference or prejudice and is neither evidence-based, or compliant with EU or disability discrimination law.

1.14	2	We do, however, provisionally propose that the Secretary of State and Welsh Ministers should set national <i>minimum</i> safety standards. We think all consumers of taxi services should be entitled to the same minimum safety standards, even if local licensing authorities wish to impose higher standards in their area.	We strongly agree that there should be national safety standards for all taxi and private hire vehicles; and strongly disagree that these should be <i>minimum</i> standards. There are clear national / international standards by which to judge vehicular safety and it is not right to say that the need for / right to safety differs by locality - a person in Leeds deserves the <i>same</i> high level of safety as a person in London, or anywhere else in the country. Neither are local authorities appropriately qualified to establish independent automotive safety standards. This will (as now) lead to widely varying standards across the country and to, disproportionate regulation. If the national standard sets the appropriate minimum level of safety regulation, there can be no case for local standards going further; such local standards would, by definition, be going beyond that which was necessary to achieve the legitimate aim of a safe taxi service.
1.15	3	We also provisionally propose that the power to limit the number of taxis allowed to operate in a licensing area should be removed. We accept that there are some good arguments for retaining the power (although not on the existing basis of a bureaucratic assessment of unmet demand), but provisionally consider that on balance quantity regulation is not justified.	On balance we do not support this conclusion. You mention quality as a key consideration (for example 1.10). Although it may appear to be counterintuitive, there is strong evidence from around the UK and elsewhere that the better quality fleets (in terms of measurable indicators, such as age and condition) are to be found in quantity-regulated areas. Before removing the option for local authorities to set quantity restrictions, the Law Commission would need to investigate this evidence and have grounds for the belief that – contrary to the available evidence to date – removal of quantitative restrictions will improve the consumer experience.
1.16	3	We provisionally propose that the Secretary of State and Welsh Ministers should set national standards for private hire vehicles and drivers, and that licensing authorities should not	We endorse the concept of a national safety standard, for the same reasons stated at 1.14 – people in all parts of the country and whether in a taxi or private hire vehicle deserve

		have the power to impose higher standards. This reflects our view that the pre-booked market works reasonably well as a competitive market, and so there is no need for the state to step in to guarantee quality or control fares.	the same reassurance in terms of safety. We do not agree that there is a difference, in terms of safety / quality intervention, between taxis and private hire vehicles. Measurable quality, in terms of periodic checks on vehicle condition, is equally applicable to both markets. Subjective quality, in terms of particular product looks, features or build standards, is a matter for the vehicle buying market to judge. It is not clear that there is a proper justification for a different approach to national standards as between private hire and licensed taxis, in particular why local authorities should be considered well-placed to impose additional regulation on the safety of taxis, but not in relation to private hire.
1.19	3	We make provisional proposals to improve the enforcement of conditions.	We support this agenda. Regulations are pointless if not adequately enforced and there is a clear need for more effective enforcement in areas such as prevention of touting, cross-border issues and assessment of vehicle condition.
1.26	4	The current legal framework has also been said to fail disabled passengers. In February 2009 a 14-year-old Birmingham girl died during a taxi ride home because her wheelchair was not properly secured. Disability groups have told us that most disabled persons have to travel without proper restraints on a daily basis. This is not only unsafe, but uncomfortable and at times undignified. These problems do not only affect wheelchair users. Deaf passengers may have difficulty communicating with the driver where the vehicle is fitted with a partition, and blind passengers have concerns about being unable to read taximeters. Our provisional proposals include questions on how to promote safety for disabled passengers as well as compulsory disability discrimination training for taxi and private hire drivers.	<p>Taxi services – as these most flexible form of public transport - have an enormously important part to play in enabling disabled people to live active, involved, independent lives. It is therefore crucial that the Commission brings forward positive proposals to improve the position of disabled people in relation to taxi and private hire services. Like the Paralympics, this is a once in a generation opportunity to make a meaningful difference in attitudes to and involvement of disabled people.</p> <p>You rightly identify a number of issues with the current operation of taxi and private hire markets in relation to disability issues. It is vital that you not only identify the problem, but that you recommend relevant changes to the</p>

			<p>law that will, in practice, improve access and freedom for thousands of disabled people. In particular, it is essential that you address:</p> <ul style="list-style-type: none"> • Safety issues for wheelchair using passengers, such as those so widely evidenced by sideways, unsecured travel and so vividly by the tragic case of Razan Begum. • More accessible taxi and private hire fleets, better able to meet the needs of a diverse range of disabilities and disabled people. • Improvement of overall service to disabled passengers, both through stronger enforcement (including, but not limited to, awareness training) and through provision of more suitable vehicles and features to make it easier and more practical to assist the needs of disabled people. <p>It is strange that, among 73 proposals, dealing with a host of industry technicalities, you are content only to ask questions and make no recommendations (other than the general suggestion of more driver training) to tackle the clear concerns that you identify in relation to access and safety and safety for disabled people.</p> <p>We have set out in detail in the first section of this response the nature and scale of the equality problem, and our recommendations for addressing it.</p>

1.46	9	The Office of Fair Trading's analysis identified a substantial variation across local authorities in quality and safety regulation. Concerns were raised by a number of local authorities, about the use of the Metropolitan Conditions of Fitness (these are conditions which apply to the London black cabs for example) which it was feared could increase costs and deter entry to the market. The Office of Fair Trading also found that, whilst black cabs are accessible for some customers in a wheelchair, they are not necessarily suitable for other passengers with reduced mobility or other disabilities.	These matters are powerfully evidenced and await the opportunity of a law review such as this in order to address key issues. It is noticeable that you are vigorous in pursuing the OfT's concern regarding regulation of taxi numbers, yet offer no legal solutions to disproportionate regulation which distorts the operation of the taxi vehicle supply market (with consequential additional costs for taxi operators and users) and which restricts safe access to public hire taxi service for thousands of disabled people.
1.55	11	Since 1999 the number of taxis has increased by an estimated 27%. Evidence suggests private hire vehicles may have increased even more. Such figures do not necessarily correlate to changes in patterns of demand for the different services offered by taxis and private hire vehicles. The relative numbers of each category in an area will depend in part on whether quantity restrictions are in place on taxis and how tight those restrictions are, and so are sensitive to changes in the incidence of quantity control.	It follows that the increase in numbers in de-regulated areas has been even more dramatic. Experience of many such areas illustrates that the dilution of total business among a substantially larger number of vehicles results in less incentive to invest in vehicle maintenance and/or to reinvest in newer vehicles. As a result the quality of fleets, in terms of overall vehicle condition, has been seen to decline dramatically.
1.56	11	People in the lowest 20% of incomes are 40% more likely to use taxis and private hire vehicles than those in the highest 20%. Taxi and private hire point to point services are essential for passengers with disabilities. For many people, taxis and private hire vehicles provide an essential form of transport enabling them to travel to work and to vital amenities such as shops and medical facilities, as well as leisure activity.	These are important facts, which in turn indicate the particular importance of ensuring that regulation encourages and, equally, does not discourage, optimum affordability and accessibility of taxi fleets, throughout England and Wales.

Chapter 2		The Licensing Framework	
2.7	15	The Department for Transport issues best practice guidance to help bring consistency across licensing authorities but this is not binding. This results in considerable geographical variation in how the legislation is interpreted and discretionary powers are used. This has led to significant uncertainty and a proliferation of litigation in respect of basic questions such as what falls within the scope of regulation and what does not.	A key purpose of this review should be to improve the law, such that it better determines what (such as fare setting) is a legitimate local issue and what (such as safety or disability access) is a matter which should be regulated nationally. Areas where current regulation has fallen in court judgments should be a natural priority for reform through the Commission's proposals, such that applicants and the courts are not burdened with re-contesting the same issues, subject by subject and/or area by area.
2.19	17	Local authorities have the power to make byelaws for regulating hackney carriages; similarly, Transport for London has the power to issue London Cab Orders. Local authorities can also attach to the grant of a taxi or private hire licence such conditions as they consider reasonably necessary.	As above, it will be important to distinguish between what is appropriate to be judged locally, whether through by-laws or cab orders and what is not. 'Reasonably necessary' is vague and has resulted in a variety of legal challenges. Such discretion should be more accurately defined and justified. Proportionality, i.e. the least restrictive means to achieve a legitimate aim, is a better measure of justified regulatory intervention.
2.28	19	The Department for Transport recommends that zones should be abolished, chiefly for the benefit of the travelling public because zoning may diminish the supply of licensed taxis and reduce consumer choice.	Note that restrictive licensing conditions, such as those in London, also have the effect of diminishing the supply of licensed taxis (through inflated vehicle prices) and reducing consumer choice (through monolithic fleet composition).

2.32	20	<p>. . market failures in the rank and hailing market for taxis . . prevent normal competition [and] can hurt consumer interests. Consumers are generally in a weak bargaining position and have limited choice, with taxis exercising something akin to monopoly power.</p>	<p>As described in the first part of this consultation response, this oversimplifies the situation. It is widely accepted, for example, that a disabled person need not take the first vehicle on the rank of a vehicle more suitable to their needs is available further down the rank. Moreover, the increasing use of hailing apps such as Hailo will allow consumers to exercise a degree of choice over vehicle type when hailing in the street. All of this means that there is a need for increased competition on vehicle type, as this will enable consumers to make choices and better meet the needs of disabled customers, as well as driving innovation and quality improvements; currently in “London conditions” areas there is a very limited range of vehicles available, so consumers (both those who purchase taxis and those who use them) “are generally in a weak bargaining position and have limited choice”.</p>
2.41	21	<p>In London, fare increases are calculated using a formula based on an index reflecting operating costs. The index includes the costs of the vehicle, parts, insurance, servicing and the Knowledge. Changes, such as making vehicles wheelchair-accessible or bringing them up to required Euro emissions standards, can have significant cost implications. Such one-off increases are accommodated outside of the general cost index formula. Fuel costs, which are difficult to predict, are also a key factor impacting fares. Ultimately, costs are passed on to the consumer.</p>	<p>This section correctly acknowledges that vehicle purchase and running cost are ultimately <i>passed on to the consumer</i>. It follows that ‘London Conditions’, which have the effect of artificially inflating vehicle purchase and operating costs, result in higher passenger fares. In its pre-consultation communication with the Commission, Allied supplied a 2005 report by Frontier Economics addressing this issue and estimating that the London conditions of fitness will add some £183m to consumer fares over a twenty year period.</p>
2.43	22	<p>We also note that taximeters are subject to European regulation in order to ensure harmonised standards and consumer protection.</p>	<p>You should similarly note that vehicles are subject to European regulation in order to ensure harmonised standards and consumer protection, including free operation</p>

			of the internal market and robustly evidence and approved safety standards.
Chapter 3		Definitions and Scope	
3.8	25	This has been interpreted by the courts to mean that, in England and Wales (outside London), leisure use is not allowed, creating the concept of “once a taxi, always a taxi”.	Leisure use is also permitted in parts of Scotland. We are unaware of any issues arising from such use, either in London or Scotland. It is unnecessarily punitive to insist that taxi owners must also buy a second vehicle for family / leisure use. This in turn also has a negative environmental impact, by artificially increasing the number of vehicles in the country.
3.53	34	. . a private hire vehicle may only be driven by a licensed private hire vehicle driver . .	As above, we support leisure use of both taxi and private hire vehicles.
3.88	43	Primary legislation does not require a taxi to have a roof-sign, but many local authorities make this a licence condition. In London, there is a requirement for the fitting of a “taxi sign”, clearly visible both by day and night when the vehicle is available for hire.	If there is to be a distinction between taxi and private hire vehicles in law, it makes sense for law to require that this is identified to the public, by means of an appropriate sign. There is no local issue here – people in Swansea and Sunderland have just the same need and ability to distinguish by sign, so the requirement to display an appropriate sign ought to be national in dimension.
3.89	43	The use of a roof-sign which displays the word “taxi” or “cab”, or any other feature which might suggest the vehicle is a taxi, on any vehicle which is not a taxi is prohibited in England (outside London) and Wales. A similar prohibition applies in London.	As above – the reverse should apply.

Chapter 4		Driver, Vehicle and Operator Licensing	
4.29	51	Disability awareness training is commonly required by licensing authorities. The Disabled Persons Transport Advisory Committee has developed a training resource that focuses on good customer service for disabled people. This is integrated into elements of the Vocationally Related Qualifications and National Vocational Qualifications	Disability awareness training is an excellent development which should be encouraged. Our experience agrees with yours that such training is now widely required across the country. Again, there is no local dimension to this – disabled people everywhere in the country share the right to a taxi service provided by appropriately trained drivers – and so such training should be required nationally. Moreover, as we have noted elsewhere, driver training is not an answer to fundamental problems of vehicle accessibility and design.
4.41	54	In London, applicants for a taxi licence must comply with the conditions of fitness issued by Transport for London. The London Conditions of Fitness require all taxis to be wheelchair accessible and have a taximeter. Other notable features include the turning circle of 7.62 metres, a partition separating driver from passenger, an overall length which must not exceed five metres and a flat floor in the passenger compartment for which there are minimum height limits. Although these conditions were developed for London, they have also been adopted by ten other local authorities in England and Wales.	We also note that you say that another requirement is a flat floor in the passenger area. We agree that this make eminent sense, both for able-bodied and even more so for disabled passengers. However this is not the case with most of the current London taxi fleet.

4.42	54	<p>Only two companies currently produce vehicles which satisfy the conditions: LTI's "black cab" and Mercedes-Benz's Vito. In 2002, the Public Carriage Office (now London Taxi and Private Hire) undertook a full review of the Conditions of Fitness, which was completed in June 2003. Allied Vehicles, a major supplier of taxi vehicles outside of London, challenged the necessity of the turning circle requirement in particular, as the cost of developing this prevents other providers from entering the market. Although Transport for London modified some requirements, it retained the turning circle requirement on the basis that its research indicated it was useful. Such purpose-built vehicles are more expensive than regular cars, retailing at over £30,000.</p>	<p>You cite 'a deregulatory approach' as the guiding principle for your review. Here you clearly identify that the taxi supply market in London (and other 'London Conditions' authorities) bears no resemblance to the taxi market elsewhere in England and Wales and is accordingly much less competitive, as a direct consequence of regulatory condition.</p> <p>The price point quoted for currently available vehicles is misleading. The least expensive new vehicle currently permitted for sale in London is a TX4 Style manual, priced from £31,995. Moreover the vast majority of London cabs are automatic vehicles. The least expensive new vehicle currently for sale in London is a TX4 Style auto, priced from £33,995. It would also be helpful to illustrate that the only alternative make, the Mercedes-Benz Vito, is priced at £41,995. Also such vehicles are not just more expensive than 'regular cars', they are also more expensive than regular hackney cabs used everywhere else in the country (E7 taxi, for example, from £27,495).</p>

4.43	55	<p>Although vehicles conforming to the Conditions of Fitness are said to be wheelchair accessible, there is no single standard-sized wheelchair, therefore inevitably certain wheelchairs cannot be accommodated. Issues that may arise for users include the impossibility of securing their chair, that they may be required to travel facing forwards or sideways (rather than the recommended backwards), and that users may not be accompanied by more than one other person.</p>	<p>On your own remarks at our meeting on 7th June, an assessment of the law must embrace the reality of what actually happens in practice, together with the intention of the written law. We therefore note that, while the London Conditions of Fitness require all hackney carriages to be wheelchair accessible, it is generally accepted that the vast majority of wheelchair users using the current fleet travel sideways and unsecured. This is because the vehicles concerned make it unreasonably difficult, for both driver and passenger, to do otherwise. Despite being contrary to TfL's own instruction, it is evident that most London cabs are not, as a matter of fact, <i>safely</i> accessible for most wheelchair users. We agree with your statement that all London taxis 'are said to be wheelchair accessible', but the reality is that they are not.</p>
4.44	55	<p>Given that a number of authorities have adopted the London Conditions of Fitness or similar requirements for their own taxi fleet, disabled passengers travelling in taxis in a wheelchair elsewhere in England and Wales may experience the same problem. Liverpool City Council was successfully challenged on its use of such a policy by Mrs Lunt, who used a larger-than average wheelchair and found she was unable to travel safely or comfortably in a London-style taxi. The court recognised that some passengers in wheelchairs could not access the approved type of taxi, and that the council's decision was based on a fundamental misunderstanding of the true factual situation. Whilst the approved style of taxi was suitable for many disabled passengers in a wheelchair, the evidence before the committee clearly showed that there was a class of passenger, such as that represented by Mrs Lunt, which had serious difficulties with it. The licensing committee had failed to address this.</p>	<p>We would like to think that the Commission will be eager to take positive steps to address the regulatory issue which gave rise to the difficulties experienced by Mrs. Lunt and, you note, a wider class of disabled passengers travelling in taxis in a wheelchair in other authorities which still retain similar restrictions. This review represents a major opportunity to enhance the position of thousands of disabled people and to ensure that others do not have to endure the lengthy court struggle that Mrs. Lunt experienced, in order to benefit from taxis in which to travel safely.</p>

4.58	58	Age limits can operate as a proxy for governing the overall quality of a vehicle. It is more likely that an older vehicle may have mechanical failings, have damage associated with wear and tear, and be less environmentally friendly. A locality wishing to project a new and modern image of its public transport may regard its taxi and private hire vehicle fleets as a part of that strategy. However, an older vehicle may be well-maintained and in good working order. Department for Transport guidance suggests that the setting of an age limit may be arbitrary and inappropriate, although it may be appropriate to require more frequent testing for older vehicles.	We agree that a well-maintained older vehicle may match the condition of a younger, less well-maintained vehicle, although such judgement may in time become arbitrary. On the other hand an older vehicle will not match the remarkable environmental gains achieved by each new generation of engine.
4.59	59	As part of the Mayor's Air Quality Strategy Transport for London has recently introduced age limits. There are a limited number of exemptions from the age based limits and related emissions standards for licensed taxis and private hire Vehicles.	Note that the 15 year age limit for hackneys was originally conceived as a 12 year limit. This position was, understandably, diluted in response to feedback from driver representatives indicating that the trade would not be able to bear the cost implications due to "the current economic climate and with the restricted choice of vehicles available to the London taxi trade." (See Appendix A3.) It is ironic that a greater impact on air quality could be achieved simply by removing barriers that preclude the purchase of more modern, greener, new cabs, available on the market outside London at considerably more affordable prices.

4.60	59	Licensing authorities may also impose minimum standards for emissions. EU legislation imposed air quality targets that became mandatory in 2010. Separate legislation regulates pollutant emissions from road vehicles. In London, from 1 April 2012, Euro 5 emissions standards have applied to new taxis and Euro 4 to new private hire vehicles.	All new road M1 category vehicles, which of course includes taxi and private hire vehicles, must in any case meet current European emission standards. Note that the London standard referred to is superfluous, because new vehicles must already meet emission standards equal to those set in wider, European legislation.
4.61	59	Taxis and private hire vehicles are subject to annual testing by their licensing authority up to a maximum of three times a year. Taxis and private hire vehicles can be exempted from annual MoT testing. There is little consistency between licensing authorities both in terms of the content and the frequency of testing. Department for Transport guidance suggests that an annual test for vehicles of any age seems appropriate in most cases unless local conditions suggest that more frequent tests are necessary. The Technical Officer Group of the Public Authority Transport Network has issued guidance on national inspection standards for taxis and private hire vehicles. These are recommended by the Department for Transport.	Regular condition checks for taxi and private hire vehicles represent a key, objective measure by which to maintain fleet quality and safety. There is no good reason to think that the interests of the public in this regard are any different in different parts of the country, or that the expectation and expense placed on cab owners should be different in different parts of the country. The initiative of the Technical Officer Group is welcomed and should be adopted as an important component of new national standards governing taxi and private hire vehicles.
4.65	60	In <i>R v Wirral BC Ex p Wirral Licensed Taxi Owners association</i> , the court considered the compatibility with European law of imposing restrictions on the types of vehicles which may be used as taxis. The case arose when the Metropolitan Borough of Wirral considered passing a resolution under which all taxis operating in the district would have to be the London-style hackney carriage, manufactured by one British manufacturer.	This case has been held by the High Court to be no longer good law in the light of EU jurisprudence. It is misleading to quote this case, in particular as the point has been considered in the more recent High Court judgment in Lunt. This is addressed in detail in Chapter six in the first section of this response..

4.66	60	The authority received a warning from the Home Office that this would be contrary to European law ¹¹² as it would prevent manufacturers from other European countries selling taxis in the Wirral. In the light of this advice, the council adopted a more generally worded resolution which described the London style of taxi and excluded other types of car, but which enabled any willing European manufacturer to make and sell the vehicles to the Wirral. The court found that whilst the earlier resolution would have breached European law, the wider wording was acceptable.	As 4.65. This misstates the current state of the law and should be corrected: see section 6 of response.
Chapter 5		Enforcement	
5.11	71	Authorised council officials . . can inspect the licences of drivers ¹⁸ and operators, and the licences and insurance policies of vehicles. They can also inspect and test taxis (and taximeters) and private hire vehicles for fitness. ²¹ If they are not satisfied, they can require further inspections and testing and, until such time as that is completed satisfactorily, they can suspend the licence.	<p>This aspect of enforcement merits greater emphasis in your review. Ensuring that hard-working taxi and private hire vehicles are maintained in a presentable and mechanically sound condition (and appropriately insured) is the primary, measurable safeguard of quality and safety for taxi and private hire services.</p> <p>We are aware that the nature, frequency and rigour of condition checks across England and Wales varies hugely. There are, for example, many instances of random spot-check exercises which have resulted in a significant volume of cabs (both taxi and private hire) being suspended, pending corrective action; clearly such an outcome suggests that the regular testing regime has proved inadequate. Equally, in other areas such spot-check initiatives have revealed a very high level of compliance with required quality and safety standards, suggesting that here the general level of maintenance and testing is effective.</p>

			The trade would wish to see safeguards which prevent unwarranted or unnecessarily frequent intervention by licensing enforcement teams, which has in some cases been characterised as petty or harassing. On the other hand the many committed members of the trade who take considerable pride in their working vehicle(s) share a moral and economic interest, in addition to the public safety interest, in ensuring that less diligent cab operators are actively and effectively held to account.
5.14	71	There are two broad areas of enforcement. First, against those who purport to provide taxi or private hire vehicle services but who are not licensed at all. Second, against those operators who are licensed but who operate in contravention of the terms of their licence. The first group pose a greater threat as they are completely outside the licensing system and are also harder to enforce against. Enforcement officers have very limited powers in relation to people who do not hold licences, and require police intervention if they suspect these activities to be taking place.	We agree that the first group provides a potentially greater threat to public safety. However note that the first group (typically private hire drivers seeking to collect an un-booked fare) can be a contributory factor towards the second, by encouraging members of the public to become accustomed to seeing vehicles not marked 'taxi' plying for hire, as if a taxi. Note also that both form of touting result in the same economic harm to legitimate taxi operators, in terms of lost – indeed stolen – business. There is deep feeling throughout the taxi trade that much more proactive action is required on the part of licensing teams to ensure effective enforcement in relation to both forms of touting.
Chapter 6		Hearings and Appeals	
6.10	79	In England and Wales generally, the refusal of a taxi or private hire licence, as well as any conditions attached to the grant of a licence, can be appealed by any person aggrieved by the decision. The right of appeal is limited to the applicant in London.	Taxi and private hire services are a crucial component of the public transport network, impacting on many aspects of business, social and family life. It follows that cab licensing matters – both individual licensing decisions and general policy decisions – should be open to appeal by any person aggrieved by such a decision. This should include the vehicle manufacturer if the reason for the refusal relates to aspects of the vehicle's design or quality.

6.20	81	Decisions of a local authority can also be subject to judicial review. Unlike statutory appeals, where any aspect of the licensing authority's decision can be challenged, judicial review can only be brought on specified grounds. Judicial review is not concerned with challenging the merits of the decision, and whether it was right or wrong. Instead judicial review focuses on how the decision was reached. Key grounds for complaint include that there was an error of law or that the procedure that a licensing authority took in reaching the decision was not fair.	Judicial review is likely to remain an important recourse in any future licensing legal framework, particularly in relation to challenges to the lawfulness of a policy. However, a key goal of this review should be to recommend improvements to the law which reduce the need for legitimate applicants to have to resort to daunting and expensive court action in order to assert fundamental rights.
Chapter 7		Regulation and the One or Two Tier Debate	
7.1	84	In this chapter, we first discuss the fundamental approach we take to the regulation of economic markets in general. We apply this to the markets for taxi and private hire services and draw provisional conclusions about the broad scope of regulation.	The draft proposals appear to apply principles of regulation of economic markets to the markets for taxi and private hire services as they relate to end users, but not to taxi and private hire sales, as they relate to cab owners as upstream consumers. Regulation should also ensure that England and Wales' 300,000 licensed taxi and private hire drivers (see www.dft.gov.uk/statistics/series/taxis/) – typically self-employed individuals – can exercise choice in a competitive market.

7.2	84	We live in a market economy. On the one hand, sellers of goods or services choose freely whether to enter a market, and at what level of quality and price to make their offering. On the other, consumers choose between competing sellers on the basis of price or quality, and, generally, there is an <i>efficient</i> outcome.	We live in a market economy not least because the law is shaped to ensure that the economic benefits of competition are available to consumers, sellers and the wider public in general. By any measure, it is clear that the market economy and its associated benefits does not extend to taxi owners in those parts of England which remain governed by the overly restrictive 'London Conditions'. This most serious matter, identified as a concern by the Office of Fair Trading, should be addressed much more prominently in your review.
7.3	84	While in practice hardly any real-world markets are perfect in this sense, many markets are close enough for the market to be a more accurate and reliable way to distribute goods and services than bureaucratic decision-making.	An apposite description of the natural economic order which is prevented from operating in markets regulated by the London Conditions of Fitness.
7.4	84	However, sometimes markets do not produce the best results, even in this real-world approximate sense. "Market failure" describes the situation in which some flaw in the operation of the market means that the outcomes are not the optimal ones that economic theory would predict, if the market was working properly. A flawed market may mean that consumers pay higher prices, quality is lower or there is less supply than would be the case if the market was working properly.	An accurate description of the market failure that prevails, and the consequence that arise, in markets regulated by the London Conditions of Fitness. Currently UK taxi buyers have a choice of some 25 wheelchair accessible taxi models, compared to a maximum of two in restrictive market areas (See Appendix A4.) Price variation is also dramatic, even among cabs that match or exceed the London Conditions specification, other than the unusual turning circle (See Appendix A5). This market failure is addressed in the first part of this response; please refer to <i>Table A</i> above.
7.5	84	It is in situations like this, where the market is not working properly, that it may be necessary for the state to regulate the market, to make up for the market failure.	It is misleading to overlook the fact that state regulation can also be the <i>cause</i> of market failure, exactly as you describe.

7.6	85	As we outlined in Chapter 1, in this project we are taking a deregulatory approach, that is, an approach which insists that any regulatory intervention must be properly justified, and the intervention must match the justification.	This approach is vigorously applied in this review in terms of taxi and private hire user markets but is not carried through into vehicle supply markets. The deregulatory principle should be carried through consistently.
7.9	85	When pre-booking, consumers can shop around for the best deal in selecting their ride. The normal market mechanism of advertising operates, providing consumers with information on quality and price. Competition can be on the basis of offering a better price, or in respect of features which consumers would be willing to pay for if given a choice.	<p>While in principle true, in reality most consumer decisions relating to private hire bookings will be made on the basis of waiting time and/or price (e.g. for an airport transfer), but often a consumer will simply call the number above the phone in their local supermarket, hospital or in a city centre bar, and will not engage in any analysis of the relative features, quality and price of different private hire services.</p> <p>Further, private hire services often imply access to a large number of self-employed vehicle owners, collectively subscribed to a given operator, who in turn allocates bookings received. A good experience with a company on one occasion does not mean that the driver and vehicle despatched next time will match the same standards.</p>
7.10	85	Since a consumer is unlikely to get in the same cab twice through either hailing or going to a rank, taxis have no incentive to raise standards (at least beyond a minimum mandated by regulation). Raising standards is a cost to each individual taxi yet they are not in a position to reap the benefits.	<p>Here the opposite of 7.9 is true, in that you understate the element of consumer choice in the public hire context. It is wrong to infer that 'taxis' (by which we assume you mean taxi owners) have no incentive to raise standards (at least beyond a minimum mandated by regulation). If this were true, all taxis would, presumably, be of a standard just above the minimum required to scrape through a periodic taxi check.</p> <p>In fact this is not the case at all. While in some areas taxis are of a disappointing overall standard, there are many examples both of owners individually and fleets in general which are maintained to a standard well above the</p>

			<p>regulatory minimum. A great many taxi drivers appreciate the wider market context in which the local taxi service competes with other forms of transport (bus, train, underground, tram) and indeed with the private hire sector. The underlying incentive to maintain good quality vehicles is far from lost on such taxi owners, who are in a position to compete for business in other ways, including return fares (“here’s my card, just give me a ring when you’re ready to come back” being commonplace); other direct telephone bookings; and radio circuit bookings. Interestingly there are, in our experience, as many examples of poorly presented private hire vehicles as of well presented taxis.</p> <p>Recent technological developments in hailing, such as the app “Hailo”, also introduce an element of consumer choice into street hailing, with the user being able to select a particular make or model of taxi: this is likely to drive the uptake of more modern, comfortable or innovative types of vehicle (where local regulation does not unnecessarily preclude their use)</p>
7.11	85	In the on-street hail market, once a cab has been stopped the seller is in the position of a temporary monopolist. There is no real competitive pressure in relation to price – under monopoly conditions, prices will generally be higher than where competition prevails.	This point, in relation to the taxi users, is well understood and provides the basis for public intervention in setting standardised fare tariffs. The underlying point that, ‘under monopoly conditions, prices will generally be higher than where competition prevails’, is well illustrated by the higher prices existing in cab supply markets regulated by the London Conditions of Fitness.

7.12	86	<p>At ranks, it is a generally accepted social practice that customers will engage the first taxi in the rank, without negotiating on price, and without consideration of safety or quality. The result is that there is no place for competition between providers. In some cases, reformers have sought to change this social practice in order to encourage competition, but apparently without success. We take the view that we should take such practices as independently fixed in assessing the need for regulation, rather than relying on people changing their behaviour to suit economists' prescriptions.</p>	<p>In general this is true, but it does not apply in <i>all</i> circumstances, the instance of a disabled customer with particular needs being a notable exception and one which is already well recognised among local licensing enforcement teams and much of the taxi trade. (See Appendices A1 and A2.)</p>
7.14	86	<p>One particular source of market failure is where there are imbalances between the information available to one side or the other in the transaction. Such imbalances can arise where a consumer cannot be expected to have specialist technical knowledge. As the economist Dr Darryl Biggar notes, "It is often pointed out that the typical customer is not able to assess how well the taxi vehicle has been maintained and whether or not it is safe and roadworthy. Neither can the customer assess whether or not the driver is competent and safe, nor whether he/she has a history of criminal tendencies."</p>	<p>Agreed. This is a fundamental and indeed the most important single justification for regulatory intervention relating to vehicle safety standards and driver competence.</p>

7.15	87	<p>Unlike the other failures we outlined above, this problem affects both the taxi and private hire markets. Indeed, it is a general issue. Safety involves assessing technical matters beyond the knowledge of the large majority of consumers. It is therefore generally accepted that the state will regulate to ensure at least the minimum safety of products and services. This includes cars. Regulation ensures that cars are safe, not only at the point of manufacture, but on an on-going basis via the annual MOT test (after an initial three year period). Drivers' safety is assessed by the driving test and enforced by criminal law. Taxis and private hire vehicles are used much more intensively than ordinary vehicles. There is also a further layer of information imbalance between the driver of a taxi and his or her customer, as compared with the driver of a private car. There is, therefore, a compelling case for minimum safety standards to be set for both private hire vehicles and taxis, over and above those pertaining to private cars and drivers.</p>	<p>Agreed. This is, as you point out, a general issue and the circumstance and need here expressed applies equally to public and private hire transactions; to transactions in every part of the country; and to both able-bodied and disabled passengers. Given the accepted general nature of this key concern, it follows that whichever standard is deemed acceptable should be applied to all passengers, in all parts of the UK. It should not therefore be a standard that can be varied across different local areas: it should be a national, uniform (i.e. not simply minimum) standard on safety. It must include provision on the safe carriage of wheelchair users.</p>
7.16	87	<p>However, if we are right that the pre-booked market operates reasonably competitively and the hailing and ranking markets do not, then there is a compelling case to regulate both the price and quality of taxi services, but neither in respect of private hire vehicles.</p>	<p>As indicated in response to 7.9, it is not correct to assume that the market automatically maintains acceptable quality standards throughout private hire fleets. On balance, we accept the rationale to regulate taxi fares but not private hire fares, but we oppose the view that taxi quality should be regulated, but private hire quality should not. It will be much preferable for the consumer - for the reasons you state at 7.14 and based on our experience of variable quality standards across both types of service – that both taxi and private hire quality should be regulated mandatory through periodic condition checks.</p>

7.17	87	The current system allows for conditions to be set for private hire vehicles as well as taxis, and these are frequently used to impose quality standards on private hire vehicles.	You seem here to conflate vehicle features with quality. If by quality you mean a value judgement on the relative merits of a particular product, then clearly this is something that should be left to market choice and not regulated (we include in that description vehicle features such as type of door, turning circle, availability of air conditioning etc). If regulation is to engage with quality, meaning level of maintenance, cleanliness, age of vehicles etc. (which it should, for both taxi and private hire vehicles) then it should be on the basis of measurable criteria relating to the condition in which vehicles are presented and maintained.
7.18	87	If quality regulation is not justified in respect of private hire vehicles, there would seem to be two consequences. First, customers are potentially being prevented from choosing to pay a discounted price for a scruffy but safe private hire vehicle. In a competitive market, there seems no reason to prevent consumers making that choice.	This proposition contradicts the 'information imbalance' that you articulate at 7.14. One private hire firm may well represent tens, hundreds or even thousands of cabs. In calling the main number the consumer has no way of knowing whether he/she will be met by the owner-driver of a brand new cab or a scruffy cab. There is no direct market choice in the way that you suggest. As with hailing, the option of calling back for another cab, including the hassle and waiting time involved, makes this an impractical alternative. If there is justification for regulation to prevent consumers being presented with a scruffy public hire taxi there is justification to prevent consumers being presented with a scruffy private hire vehicle.
7.21	88	Once we have judged that the minimum standard is an appropriate safeguard, why should we allow higher standards to be imposed locally by licensing authorities? Is it right that a member of the public should be safer in a taxi in Solihull than in Birmingham? Or a Birmingham taxi should have to be safer than a Birmingham private hire vehicle?	No, it is not. As set out above, if the national standard (based presumably on existing national or EU standards) imposes the minimum requirements needed to ensure that a taxi or private hire vehicle is safe, additional local regulation would, by definition, be unnecessary and disproportionate. Automotive safety is not a matter suitable to be regulated at a local level (indeed it is largely not regulated at the national level, but at the international level).

7.22	88	On balance we think that it would be preferable to allow licensing authorities to impose higher than the minimum safety standards on taxis.	We strongly disagree with this conclusion. The right to a given level of <i>safety</i> should be universally applied. Local authorities do not have the appropriate expertise to impose additional safety standards above and beyond those imposed by national and EU laws. Permitting them to do so will inevitably lead to wide variations in safety standards across the country, and to disproportionate additional barriers to entry, imposing unnecessary costs that will ultimately harm competition and be passed on to consumers.
7.23	89	In the first place, above a certain minimum level of mechanical soundness, there appears to be a very close relationship between safety and quality in any event. Quality conditions will tend to be expressed in terms of the description of the vehicle, such as the number of doors, its size and age. All of these will also tend to be indicative of a safer vehicle. This is not to suggest that there is no possibility of making a distinction between quality and higher safety standards, but rather that the two will tend to be broadly similar and will often be indistinguishable. And if this were so, then it is arguable that they fall into the category of features for which there would be demand if a properly functioning market existed in taxi services. These are the sorts of qualities that are not difficult to understand and are not beyond the competence of most consumers in the way that mechanical matters and technical specifications may be. If this is so, then the justification flows from the specific market failure attributable to hailing and ranking rather than the common information deficiency identified as the justification for minimum safety standards above.	<p>This is an ill-founded, inconsistent approach. There is no reason at all why a so-called “quality” condition relating, e.g. to the size, number of doors, or turning circle on a vehicle has any relationship to the safety of that vehicle. The suggestion is simply wrong.</p> <p>There is, in our view, no justification for the law permitting varying safety standards for taxis across the country.</p> <p>“Quality” in the terms described is not related to safety. A vehicle with two doors is not less safe than a vehicle with four doors, nor is a larger or older vehicle necessarily less safe. “Quality” is an imprecise term used ambiguously throughout the consultation document, and should be avoided. Local authorities are well placed to regulate some matters of “quality” in the sense of cleanliness of vehicles, frequency of maintenance and checks etc. They are not well placed – and should not seek – to regulate matters such as vehicle design, turning circle, number of doors etc.</p> <p>Simply put, the number of doors a vehicle has is <i>not</i> a measure of a vehicle’s quality, and certainly is not ‘indicative</p>

			<p>of a safer vehicle’.</p> <p>There is, in any event, simply no need to enter into this confusion. Safety is a technical matter and that relevant expert sections of national and international government, in conjunction with the automotive manufacturing and service sectors, have invested intensively, over many decades, to establish thoroughly grounded <i>safety</i> standards for the design and construction (Type Approval schemes – see http://www.dft.gov.uk/vca/vehicletype/index.asp) and maintenance (recommended maintenance schedules, supplemented by MoT and related inspection) of all motor vehicles. The Type Approval schemes are further augmented by specialised standards relating to the construction of wheelchair accessible vehicles (PAS 2012 – http://shop.bsigroup.com/en/ProductDetail/?pid=000000000030194286).</p> <p>Your proposal for variable standards between private hire and taxi vehicles and between taxi vehicles in different localities is entirely counterintuitive in terms of consumer protection; would you really expect borough councils to determine appropriate safety levels expected of washing machines in their area? Automotive safety is already thoroughly benchmarked by legally binding automotive regulatory standards.</p>
7.24	88	<p>Further, if it is in practice often difficult to distinguish between quality and enhanced safety standards, then, if quality conditions were to be permitted, but do not enhance safety conditions, there may be scope for conflict and litigation. The risk is that particular conditions could be challenged as being <i>really</i> about safety rather than quality, and therefore beyond the power of the licensing authority to impose. The</p>	<p>This danger only arises if local authorities are invited to stray into setting additional automotive safety standards or so-called “quality” standards that relate to vehicle or product design and are not related to the quality of the service being provided. For reasons already given, we do not consider that such matters are appropriate for local authorities to regulate. Any local regulations beyond the national</p>

		<p>courts would then be asked to attempt to distinguish the two. We see this as an unfortunate potential development.</p>	<p>standard should in our view be required to be shown to be in pursuit of a legitimate aim closely connected to the provision of taxi services, and proportionate.</p> <p>The courts are well used to establishing whether the legitimate aim for a particular measure is indeed public safety: that issue often arises in cases concerning interference with human rights or EU rights. There is an established body of case law on precisely this issue, given that public safety is one of the legitimate aims that can justify a proportionate interference with EU free movement rights..</p>
7.33	90	<p>In some areas, specific conditions have been imposed to tackle emission levels. The control of pollution is the classic example of regulation justified by the external costs imposed by a particular economic activity.</p>	<p>If serious about minimising harmful environmental impact from taxi and private hire vehicles, it would be remiss not to record the importance of fleets moving forward with new generations of vehicles. Whatever regulatory cut-off points may or may not be made in terms of maximum age, the key fact is that the addition of new vehicles, of the latest Euro emissions, will naturally replace older vehicles and will inherently make a dramatic contribution to reducing harmful emissions. To this end it is crucial to note that licensing conditions which inhibit competition, thereby creating a distorted market with inflated prices (typically some £7,000 per vehicle), naturally create a substantial artificial blockage to the purchase of newer, cleaner cabs. London is the clearest example of this, where the failure of the market has resulted in yet further regulation being necessary, in the form of age limits.</p>
7.34	90	<p>In London, for example, the majority of fine particulate emissions from within central London come from road transport. Within central London, taxis account for over 30% of exhaust emissions (based on 2008 figures). The Mayor of London's Air Quality Strategy therefore includes age limits for taxis, on the basis that older taxis emit considerably more</p>	<p>As 4.59 – London's taxi age limits are older than they may have been, in part because of concerns over the price of new vehicles, due to the restricted market in the capital. The Mayor could accomplish more, in terms of emissions reductions, by stimulating uptake of the newest, cleanest vehicles. This can readily be achieved, at no cost to the</p>

		harmful pollutants than newer vehicles.	public, by enabling the sale of Euro 5 vehicles that are £7,000 less expensive than those currently permitted.
Chapter 8		Problems with the Law and the Case for Reform	
8.4	94	Even safety, an area in which passengers can legitimately expect uniform minimum standards, can be subject to widespread variation.	'Uniform minimum standards' is self-contradictory. Passengers should be entitled to expect 'uniform standards', i.e. the same standards, in relation to safety.
8.7	95	There is little uniformity in the content and frequency of vehicle testing by local authorities and stakeholders have told us it varies considerably.	Ageed. As at 5.14, our experience indicates wide disparity across the county. This is a key weakness in terms of guaranteeing public safety and should be addressed though national standards, locally enforced.
8.17	97	We also note that licensing authorities have vastly different approaches to dealing with (novelty) vehicles; some will refuse to license them, often by imposing a condition which effectively excludes such vehicles from the licensing regime. Alternative vehicles like motorbikes and pedicabs could be more effectively allowed to provide services, for example where the journey involves a single passenger. This would allow for a more effective service and greater consumer benefit, as well as positive environmental impact. Some motorbike services are currently licensed in London and appear to be popular. The provider of a private hire service using a two-seater recently faced difficulties in obtaining a licence, illustrating the restrictive effect licensing practices can have both on consumer provision and business innovation.	We note your recognition of the value of increasing consumer choice and of the negative effects that restrictive licensing practices can have both on consumer provision and business innovation.
8.19	98	Disability groups have highlighted the lack of training and disability awareness among taxi and private hire drivers. Disabled persons can be at increased risk of injury through their wheelchairs not being properly secured. Disabled passengers have been fatally injured due to such failings.	Disability awareness training is to be encouraged. As you note (4.29) such training is commonly required by local authorities and there is no good reason why this should not be required nationally. However disability user groups are more concerned about availability of suitably adapted

		Drivers may also injure themselves in trying to help disabled passengers inexpertly.	vehicles, since all the training in the world cannot overcome a lack of tools to carry out the task effectively. The risk of drivers injuring themselves, notably where required to manoeuvre wheelchairs within inappropriate vehicles, is a very real and growing concern and one which has previously been highlighted by the Health and Safety Executive. (See Appendix 6.)
8.20	98	In Chapter 18 we provisionally propose national disability training standards and ask how the experience of disabled passengers may be improved through better regulation.	As above it is equally, indeed more, important to address issues of suitably equipped and configured vehicles. Note that improving the experience of disabled passengers goes both to your accessibility and safety threads, since it would be unthinkable for safety standards to exclude the safety of disabled people.
8.21	98	If a private hire driver is found to be illegally plying for hire, the journey will no-longer be insured.	If a private hire or taxi driver is unable to secure a wheelchair passenger in the manner recommended by the vehicle manufacturer and/or licensing authority, we would expect the same problems with insurance to arise.
8.22	98	Stakeholders have raised concerns about licensing authorities' imposition of over-prescriptive or seemingly arbitrary conditions, as well as conditions which place a heavy financial burden on owners, such as colour and age policies. Certain licensing conditions are a cost to the trade and may not yield a corresponding benefit to consumers. Our provisional proposals try to ameliorate this in respect of private hire vehicles by providing for mandatory standards that cannot be gold-plated by local licensing authorities.	It is unclear why you do not also mention the turning circle requirement of the London Conditions in this respect, which clearly places an additional cost burden on cab owners. The same argument for precluding "gold-plating" applied to taxis as it does to private hire vehicles. It is not clear why the Commission shies away from that conclusion.

8.31	100	<p>According to the main economic literature, quantity controls are bad for consumers because they limit provision and prices are higher than they need to be. Proper quality controls and fare regulation can ensure that the vehicles provided are adequate. We will, however, be seeking further evidence as part of our consultation, in particular, in respect of externalities – and above all, congestion – which may be best addressed through quantity controls, as opposed to other forms of regulation.</p>	<p>Quantity controls are an important positive influence on outcomes for consumers, given that they create the basis for a more stable, more professional trade that provides and better service and that is more willing and able to invest in newer, better quality vehicles.</p> <p>The issue of lack of rank space is a further, crucial consideration. In many deregulated towns this situation is already acute, with groups of hackney cabs parked in awkward, off-rank locations or pointlessly circulating (and emitting pollutants) whilst awaiting rank space. As you have correctly identified earlier, public hire taxis, while independently owned and operated, fulfil a particular role within the public transport network. A fundamental aspect of this is that, other than when hailed at random, they are intended to make themselves available for hire at designated taxi ranks. This arrangement implies a coming together of private enterprise with public transport planning and infrastructure. It therefore makes sense to match the available taxi resource to the volume of rank space provided, just as it would be a nonsense to have more buses at a given bus stop than the bus stop is able to accommodate.</p>
8.38	101	<p>The age of the legislation can be problematic in respect of vehicle specifications . . There is also excessive reference to provisions only relevant to horse-drawn carriages, although this is a stylistic, as opposed to practical, problem.</p>	<p>It is not merely a stylistic concern for drivers who are prevented from purchasing a safe, modern, more efficient vehicle by regulation based on horse-drawn carriages turning around outside the Savoy Hotel in London.</p>
8.47	103	<p>Finally, it is essential to ensure adequate services for disabled passengers. Whilst market forces generally bring about</p>	<p>Neither we nor anyone in the industry to whom we have spoken recognises any basis for the assertion that (in</p>

		<p>positive results in the private hire sector, the same incentives do not exist in the taxi industry. The importance of the joined-up journey and the immediate availability of a vehicle, particularly at transport hubs, suggest that regulation should play a role here . . . The public transport dimension of taxis becomes most prominent in these scenarios and, in our provisional proposals for reform, we ask questions about the ways licensing authorities can better address these needs.</p>	<p>respect of disability provision) ‘market forces generally bring about positive results in the private hire sector’. Whilst there are some good examples of small-scale specialists, the general availability of wheelchair access and other adaptations designed to meet the needs of disabled people remains very much lower in the private hire sector than in public taxi fleets. The fact that 58.4% of taxis in England & Wales are wheelchair accessible, compared with just 2.4% of private hire vehicles, suggests that the private hire sector is not fully responding to the needs of disabled consumers (see http://www.dft.gov.uk/statistics/series/taxis/). This is further evidenced by recent research into availability of wheelchair accessible vehicles through private hire operators in Manchester and London, which found that most companies have no suitable vehicles and that customers often face an extended wait for a suitable vehicle, where one is available at all. (See Appendix A7.)</p> <p>Clearly the penetration of accessible vehicles in the hackney sector is largely driven by regulation and we see that this should continue. On the evidence above, however, there is clearly every bit as much need and justification for regulatory intervention in the private hire sector.</p> <p>As regards forward actions, it is disappointing that you have no positive recommendations (other than extending existing training) for improving the law to better address known issues in terms of accessibility and safety for disabled passengers, both in taxis and private hire vehicles. We have addressed this further, and made positive recommendations for reform, in the first section of this paper.</p>

Chapter 9		Quantity Restrictions	
9.4	104	. . there is no statutory power to control taxi numbers in London . . On the other hand, the stringent knowledge tests required of drivers in London and the costly vehicles required to meet the conditions of fitness constitute a significant barrier to entry and are widely regarded as achieving an equivalent result to quantity regulation.	<p>We consider that rigorous knowledge tests are an effective, non-discriminatory means of ensuring that only able, committed drivers enter the trade. We do not consider them to be disproportionate or incapable of objective justification; they plainly lead to a better quality of taxi service</p> <p>The opposite is true of the regulations, most notably the turning circle restriction, that limits choice to one or two very costly vehicles. The London Conditions of Fitness result in higher vehicle prices, with a consequential impact on consumers, in terms of availability of taxis, as well as on cab owners, as consumers. This is a market failure, which the Law Commission should address. Any change in the law should be designed to prevent the imposition of such onerous conditions unless they can be clearly evidenced as being in pursuit of a legitimate aim relating to the provision of the taxi service, and the least restrictive means of achieving that aim.</p>
9.13	107	We understand that many licensing authorities already set aside policies of quantity restrictions in order to license wheelchair accessible vehicles.	This is correct. Note that this incentive towards increasing numbers of wheelchair accessible vehicles may be lost if general limits on taxi license numbers are removed.
9.19	108	The Office of Fair Trading also expressed concerns that the effect of restrictions may be to prevent some people entering the market.	As 9.4, note that restrictions on choice (and so price) of vehicles act as a significant deterrent to entering the market.
9.26	110	The trades have emphasised the problem of too many taxis lining up at ranks, particularly in city centres and at transport hubs. Ranks compete with parking spaces and bus lanes and there is therefore limited scope for increasing provision.	Over-ranking has become a very serious concern in many towns and cities. It gives rise to persistent conflict between taxi drivers, licensing teams and the public; results in added fuel costs for cab drivers; and results in additional

		Limiting the number of licences reduces congestion at taxi ranks . . . Local authorities could address this through innovative approaches such as use of temporary ranks at peak times.	automotive pollution in city centres. Temporary ranks at peak times are unlikely to help since over-ranking is primarily an issue at off-peak times. See also our comments at 8.31.
9.30	110	Anecdotal evidence suggests that increased taxi numbers can result in decreased provision at the times when taxis are most needed. This is because where plate numbers are restricted, drivers who wish to enter the trade are forced to take less popular shifts in order to use the vehicle. Maximum use is made of the vehicle and night time provision is increased.	We endorse these comments. Glasgow and Liverpool, where cabs are commonly double or triple shifted, offer major examples.
9.31	110	By contrast, where taxi numbers are not restricted, stakeholders have told us that unpopular shifts remain unfilled. A lack of numerical limits therefore exacerbates the problems of over-provision during the day (leading to increased traffic and congestion) and under-provision at night.	We endorse these comments. Cardiff and Newcastle offer prominent examples.
Chapter 11		Equality and Taxis in the Community	
11.2	136	It is estimated that around one-fifth of the population of the UK is disabled – over 10 million people. Approximately 4.6 million of them are over the state pension age and this number is likely to rise. Disabled persons are reported to travel approximately a third less than those who are not disabled, but use taxis and private hire vehicles approximately 67% more. The Disabled Persons Transport Advisory Committee report that: ‘ . . . for a large and growing number of elderly and disabled people, (taxis) are quite literally a lifeline. Often taxis provide the only means of accessible local transport, or the only accessible link to long distance transport, for example, by rail or air. In fact, they are the most flexible form of public transport there is.	This data and these well-articulated remarks are important in underlining the relative importance of taxis to the ability of disabled people to live independent, participative lives. They are equally important in emphasising the imperative for this review actively to address known issues in relation to accessibility, convenience and safety for disabled people, rather than simply analyse, question and paper over the cracks. Note that DPTAC also emphasises the universality of disability needs across the country. As Dai Powell has told you, the range of disabilities that disabled people in Bradford have, and the way in which they wish to use taxis, will reflect

			those of disabled people in Birmingham, or London, or indeed any other part of the country.
11.3	136	A key aspect of providing an accessible transport system is ensuring access for disabled persons in wheelchairs. However it is important to remember that there are many forms of disability or reduced mobility which may have an impact on the ability of people to use public transport. A policy which improves accessibility is therefore beneficial to a wide range of people, including the elderly.	Helpful adaptations other than provision for safe carriage of wheelchairs, such as high visibility edging, grab handles, moveable seats, hearing loops and swivel seats should all be part of the public policy response to removing barriers to use of taxis and private hire vehicles by disabled people.
11.4	136	There are many different designs of wheelchair with varying dimensions suitable for people with different disabilities, or degrees of disability, and a vehicle which is accessible for one such design may not be suitable for others. So a vehicle in which one passenger in a wheelchair may be able to travel in safety and comfort may not provide the same experience to a passenger in a different wheelchair.	This is a fundamental step in understanding barriers faced by disabled people – disabilities are diverse and a diverse range of solutions will be best placed to meet the differing needs of disabled people, including passengers with different sizes of wheelchair. This is why it is unacceptable to have a policy that restricts the vehicles that may be used to only one or a few types.
11.7	137	We are aware that disabled passengers, in particular if travelling in a wheelchair, may be subject to direct discrimination in a number of forms. These include taxi drivers refusing to stop when hailed, moving away from the rank if a disabled person approaches them, running the meter while they help the passenger into the vehicle, or increasing the fare for carrying a wheelchair or an assistance dog. Such practices may be in clear contravention of anti-discrimination law but taking appropriate legal action can be difficult.	In order to best serve the needs of those who most deserve public assistance, there is a need both to ensure more proactive enforcement action in relation to driver behaviour, and to remove restrictive vehicles licensing policies that result in taxi fleets which are not well suited to meeting the needs of a wide range of disabled consumers.
11.8	137	Where drivers refuse to take disabled passengers they may be motivated by a variety of reasons. These include concerns about potential loss of earnings because helping a disabled passenger into and out of a vehicle may take longer, and a lack of training in how to assist disabled passengers.	It is neither fear of loss of earnings nor lack of training that is the main problem. Experience (e.g. in Liverpool) strongly suggests that providing drivers with vehicles which make managing disabled access easier, quicker and more comfortable for both driver and passenger has a hugely

			positive impact on trade attitudes towards welcoming and correctly managing fares involving disabled passengers.
11.9	137	It is generally acknowledged, both within licensing authorities and the trade itself, that provision for disabled persons is essential. How this can be properly achieved is, however, a very difficult question.	We disagree that this is such a difficult question. Simply listening to disabled people and representatives makes clear that (i) there is a need to regulate to ensure that a range of accessible vehicles are provided; (ii) disability needs are diverse and so a diverse range of vehicles will best meet the needs of disabled people.; and (iii) there needs to be effective driver awareness and enforcement. In part 1 of this response we have put forward some key proposals that would be easy to implement and that would in our view greatly improve provision of disabled persons.
11.10	137	Accessibility regulation is generally considered to be more important in the taxi market. Market forces within the private hire vehicle industry mean that many private hire vehicle drivers and operators recognise the benefit of providing accessible vehicles.	This perception of the current status of accessible vehicle provision in the private hire market is wildly optimistic. While there are some good examples, research we have carried out, together with anecdotal evidence, suggests that private hire is not a convenient or suitable alternative for public hire taxis, even in large cities. See our comments at 8.47.
11.12	138	. . it is not envisaged that existing powers in relation to taxis be extended to private hire vehicles, due to the broadly successful operation of market forces in this sector.	As above, evidence and experience contradict this assumption. There is compelling evidence of the need to introduce regulation to drive accessibility provision in the private hire sector, if we are in practice to improve transport opportunities and experiences for disabled people.
11.13	138	It is generally recognised that it would be impossible to design a vehicle suited to the needs of all disabled people given the wide and disparate variety of needs present within the disabled community. It is perhaps more important to consider the range of vehicles available in an area, in order that	Agreed. This is correct, both in terms of the misleading nature of a quest for the perfect vehicle and the fundamental importance of offering a wide range of vehicles in order to best meet a wide range of needs. What is missing in this review are clear proposals designed to improve the law,

		disabled passengers can exercise choice over how they travel.	such that the issue identified here is addressed, and in all parts of the country.
11.22	140	<p>During the preparation of this review some user groups have suggested that setting a quota for the number of wheelchair accessible vehicles in any fleet (including private hire vehicles) would be a good solution. Different approaches might apply to quotas, over an entire licensing area, zones within such an area, or for firms of vehicle providers. Trade groups have highlighted formidable practical difficulties in implementing and maintaining any system based on quotas.</p>	<p>Disabled individuals and organisations have similarly said to us that they see quotas as a necessary step to improving availability of wheelchair accessible vehicles around the country. As you recognise (11.20), availability of wheelchair accessible taxis varies considerably across England and Wales. We have also seen from Department of Transport statistics (http://www.dft.gov.uk/statistics/series/taxis/) that provision of accessible vehicles remains very low in the private hire sector, at less than 3% overall. In fact even within the taxi sector (58% overall) the range is from 100% (62 authorities) to 0%, with 116 authorities under 10%. (See Appendix A8.)</p> <p>It seems to us insupportable that there should be such a wide disparity in provision of accessible vehicles across the country. Wheelchair accessible taxis have been generally available for more than three decades; local authorities have had more than a generation of opportunity to respond. It is unfair and discriminatory to ask disabled people living in some areas to wait a further, indeterminate amount of time before they are given some measure of equality of access to taxi services. We agree that there should be quotas for wheelchair accessible taxi and private hire vehicles, on a national basis, and that administrative difficulties do not justify ongoing lack of provision.</p>
11.32	142	<p>Drawing up an acceptable specification for an accessible taxi has proved to be very complex, not least because it is difficult to identify a design which would work for different people with different disabilities. Most stakeholders we have spoken to agreed that the goal of a single universally accessible vehicle is, for all the reasons we have considered so far, misguided.</p>	<p>We agree that what has been characterised as ‘the perfect vehicle’ approach is entirely misguided. Unfortunately this provision has proved something of an albatross in holding back progress in certain local authorities, enabling proponents of the status quo to say, “well, let’s just wait and see what the Secretary of State comes up with” – whilst</p>

			<p>knowing that he/she is entirely unlikely to come up with anything at all.</p> <p>The reasons for this are, we believe, two-fold. Most important of these is the fact, articulated in your paper, that diverse needs demand diverse solutions. Secondly there has been tacit realisation within the Department for Transport that any single, credible specification which could be met by any one current vehicle will almost inevitably rule out most, if not all, other current accessible vehicles – a degree of market restriction which no sensible regulator is likely to countenance (with the notable exception of the London Conditions turning circle).</p> <p>Given the foregoing it is clear that the current legal position has and will continue to fail to meet its intended purpose, in terms of national action to improve the lot of disabled people, including wheelchair users, with regard to being entitled to ‘get into and out of taxis in safety, and to travel in safety and reasonable comfort’ (Equality Act, 2010). If the Law Commission is to achieve anything worthwhile in taxi and private hire legislation, it should improve the law such as to give practical enactment to this simple and most deserving goal.</p>
11.34	142	<p>If an application relates to a wheelchair accessible taxi, and if the proportion of such taxis in the area is smaller than the number prescribed in regulations made by the Secretary of State, the local authority cannot refuse the licence. Although this provision is not yet in force, we understand that even where authorities impose a limit on the number of licensed taxis in the area, those limits are in many areas not applied in relation to wheelchair accessible vehicles. Newcastle operates such a policy, but has granted “grandfather” rights to owners of saloon cars, who can continue to hold a taxi licence even</p>	<p>‘Grandfather rights’ are commonplace among many local authorities. These provide a mechanism for preserving the status quo. They are further evidence of need for nationally-set quotas for accessible taxi and private hire vehicles.</p>

		upon renewal.	
11.36	143	The Equality Act imposes duties on taxi drivers, private hire vehicle drivers and private hire vehicle operators to carry assistance dogs at no additional charge. Licensing authorities can exempt individual drivers on medical grounds. A number of stakeholders who use assistance dogs have raised concerns that these provisions are not sufficiently enforced, and that licensing authorities lack awareness of them.	We agree that many disabled people have experienced frustration in relation to acceptance of dogs. This appears even more acute with regard to assistance dogs, due to the concept being less well understood than that of a guide dog. More vigorous enforcement action, together with education and training, must be employed to tackle this concern.
11.38	143	Public authorities must have due regard to the need to: (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act; (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.	The evidence is that existing anti-disability discrimination laws have not achieved the aim of ensuring equality of access to taxi service, notwithstanding the fact that such laws have been in place for 17 years. This review is ideally placed to recommend improvements to the taxi and private hire legislative framework which will ensure that the rights and interests of disabled passengers are properly taken into account in licensing decisions and policies relating to the provision of taxi and private hire services. This is discussed more fully in the first section of this consultation response.
11.43	144	. . the duty to have due regard does not create a duty as to outcome. Where a licensing authority had taken into account the issue that wheelchair vehicles may not be accessible to all disabled users, there was no breach of the statutory duty.	Simply taking that matter into account is not legally sufficient. A public authority would need to show that due regard had been given to the specific equality needs in section 149 EA 2010, including those relating to the inclusion of disabled people in public life, and cogent justification would need to be advanced for any refusal to make reasonable adjustments to a policy or practice, in accordance with the provisions of the Act on indirect discrimination. The Law Commission should advance recommendations which deal effectively with the accessibility and discrimination issues that arise from restrictive licensing circumstances, similar to those in focus during the <i>Lunt</i> case.

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11.45	145	<p>This has not been the case and a number of local authorities still require taxi proprietors to invest in vehicles which, although wheelchair accessible, restrict access to a large section of wheelchair users.</p>	<p>This is somewhat misleading. Since <i>Lunt</i> a number of other authorities, including Norwich, Blackburn, Chichester and Swindon have resolved to remove the turning circle condition in order to facilitate a wider range of vehicles, including more accessible cabs. Others, including Peterborough, Coventry and Manchester have embarked on reviews of their conditions.</p> <p>This said, progress is certainly slow, with some authorities spending more than two years exploring matters without actually grappling with a decision on what is best for local residents or indeed legal for the council. (Coventry has actually taken so long in coming to consider its own consultation results that it has now deemed the results of this consultation out of date and determined to start the consultation process over again.) At such rates disabled people are left waiting and, quite literally, left at home. Clearly it is unreasonable to expect every disabled person so affected to have to follow the long and stressful process which Mrs. Lunt pursued.</p> <p>The Law Commission, through this review, has a unique opportunity to save disabled people in various parts of the country from suffering the same discrimination and disregard, by advancing positive recommendations to improve the law, and requiring authorities to licence a wider choice of hackney vehicles.</p>

11.63	148	Some local authorities have a taxi voucher or taxi card scheme. These schemes can be used towards the payment of taxi fares for residents with a disability who are unable to use local bus services.	We are aware of strong support among disabled individuals and groups for schemes of this nature. Given DPTACs comment about taxis being ‘the most flexible form of public transport there is’ (11.2), together with disabled persons’ markedly higher dependence on taxi services (also 11.2) it is evident why enabling affordable use of taxis is of such central value to our disabled community.
Chapter 12		Technology	
12.11	150	Smartphone applications - or “apps” - and Twitter feeds further blur the distinction between pre-booking and hailing. Some apps allow users to see which vehicles are in their area and select one of them, sometimes allowing them to then track the vehicle’s progress. This is comparable to hailing, as it provides an almost instant service, with most providers advertising the immediate availability of vehicles booked through their service.	Mention should be made in this context of the remarkable impact such technology can have for disabled passengers. A wheelchair user or blind person does not have to perch on the edge of a busy kerb in order to flag down a cab. Problems with cab drivers ‘pretending’ not to see a disabled person who is attempting to hail them are overcome if they are responding to an app-based request. Most significantly, ‘apps’ (for example ‘Hailo’) provide a ready-made means by which a disabled person can not only ‘hail’ a nearby cab in comfort but can request a cab of the type that they know to best suit their particular needs (provided of course that there is a broad composition of vehicles on the fleet in the first place.)
Chapter 13		Overview of Provisional Reform Proposals	
13.12	160	Provisional proposal 1 Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares.	Agree.

Chapter 14		Reform of Definitions and Scope	
14.6	162	<p>Provisional proposal 2</p> <p>London should be included, with appropriate modifications, within the scope of reform.</p>	<p>Agree – London is part of England. There is no good reason for London to be excluded from this review.</p>
14.80	182	<p>Provisional proposal 18</p> <p>The concept of compellability, which applies exclusively to taxis, should be retained.</p>	<p>Agree. However also note that more effective enforcement action should be required, in order to give practical and consistent effect to the manner in which compellability should benefit all would-be customers and, in particular, disabled customers.</p>
14.81	183	<p>Provisional proposal 19</p> <p>Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked.</p>	<p>Agree.</p>
14.85	184	<p>Provisional proposal 20</p> <p>Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.</p>	<p>Agree. It ought to be straightforward to demonstrate that a taxi is off-duty, by its ‘for hire’ light not being illuminated, in order to avoid conflict with compellability. There is no such conflict with private hire vehicles, since they operate to pre-booked fares only.</p>
14.87	184	<p>Provisional proposal 21</p> <p>The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements.</p>	<p>Agree.</p>

Chapter 15		A Reformed Regulatory Framework	
15.4	187	. . the nature of taxi and private hire services is such that it is ideally suited in many ways to local decision-making.	<p>Agree to some extent. It is in some ways suited to local decision-making (for example fare tariffs) and especially enforcement. However it is clear that there are aspects of licensing, notably in relation to safety and operating standards, which (a) are universal interests, with no particular local dimension; (b) are not matched to local authorities' expertise or knowledge base; and (c) are already well benchmarked by national / international automotive standards.</p> <p>Furthermore, devolving rights to local authorities to create their own set of rules inevitably provides scope for using licensing powers to pursue inappropriate goals, such as supporting the local manufacturer or maintaining the 'iconic' look of the local taxi fleet. Such interests have no place in taxi licensing regulation. Local authority regulation-making must also comply with domestic and EU law; in certain cases (notably the London Conditions) over-regulation is widely accepted to distort the market, reducing competition and giving rise to increased pricing, which in turn impacts both on owners and customers.</p>
15.9	188	<p>Provisional proposal 24</p> <p>Taxi and private hire services should each be subject to national safety requirements.</p>	<p>Agree. Note that such safety standards should be ensured through ongoing condition checks and should include appropriate passenger safety standards relating to wheelchair accessible vehicles.</p>

15.10	188	<p>The local nexus is strong. The ability of licensing authorities to control pricing and apply extra local standards to match local conditions is therefore important. Licensing authorities would retain the ability to impose requirements over and above the national standards to taxis being hailed or using ranks within their licensing area. These could be linked to increased safety, but we also recognise that licensing authorities may wish to impose other quality standards, for example in order to promote civic pride or meet the needs of a specific community. Examples of these higher standards could include requirements in respect of wheelchair accessibility, colours and signage, CCTV, topographical knowledge tests or specific vehicle requirements such as the turning circle. We therefore suggest that some additional standards by licensing authorities should be allowed.</p>	<p>Such powers must be clearly defined, in relation to matters in which a local dimension can clearly be demonstrated. Safety and operation of vehicles is not such an area; there are no reasonable grounds for the taxi vehicles in one area to be subject to different safety standards that those applicable elsewhere. Automotive safety is already regulated at the international level. If the national standard imposes those regulations necessary to ensure safe operation of taxi services, anything additional imposed by local authorities is likely, by definition, to be unnecessary and disproportionate.</p> <p>You provide a list of ‘examples of higher standards’. In fact none of the items stated are examples of higher vehicle standards. Wheelchair accessibility is a vehicle feature and (in terms of accessibility for secured travel) a matter of safety suitable to be addressed in a national standard. Colour and signage have nothing to do with the standard of vehicle “quality”, and different choices are not apt to be described as “higher” or “lower”. CCTV is, again, a vehicle feature or potentially a matter relating to safety or enforcement, but nothing to do with vehicle quality. Topographical knowledge tests certainly can mean higher standards, though of drivers rather than vehicles.</p> <p>The turning circle is a vehicle feature; some drivers value it, many do not, as can be seen from the distribution of sales where cab owners have a choice. (See Appendix A9.) It is quite wrong to describe this as a “higher standard” or as a “quality standard”. There is no sense in which taxis with a particular turning circle are of a higher or better quality than the hundreds of millions of vehicles worldwide that do not have that feature. Moreover, as described in the section on EU law above, that particular feature has been found by the</p>
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			courts to be a measure equivalent to a restriction on imports under EU law, which requires careful and cogent justification.
		Provisional proposal 25 National safety standards, as applied to taxi services, should only be minimum standards.	Disagree. Safety standards, above all, should be universally applied to the benefit of all passengers residing and travelling in England and Wales. Automotive safety is not a matter suitable for regulation at a local authority level.
15.11	189	Provisional proposal 26 National safety standards, as applied to private hire services, should be mandatory standards.	Agree.
15.13	190	Provisional proposal 27 Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers.	Disagree. Private hire services should also be subject to national standards in relation to provision of accessible vehicles. An appropriate level of topographical knowledge should be expected of private hire drivers as well as taxi drivers, given that this is a matter over which consumers can exercise no control at the point of sale.
15.18	191	. . Different types of vehicle will, for example, require different criteria to be met . .	Not necessarily so. Almost all taxis are M1 type vehicles and safety standards for such vehicles (and indeed any other vehicle categories) are rigorously governed by the EU Type Approval schemes. One variation from this relates to provision of wheelchair access and again this is rigorously addressed through the PAS 2012 national standard, published by BSI, for the design and construction of wheelchair accessible vehicles.

15.19	191	<p>Question 29</p> <p>What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles?</p>	<p>None (see above). There already exist robust and proportionate international standards for safe automotive design and operation. These can readily be adapted to taxis, and most taxi vehicles will already comply with them.</p>
15.21	192	<p>Question 30</p> <p>Should national conditions in respect of driver safety be different for taxi services compared with private hire services?</p>	<p>There is in principle no reason why a driver of a private hire vehicle deserves any greater or lesser degree of safety protection than a driver in a public hire taxi, unless there are considered to be specific and additional risks that arise from being able to be picked up on the street rather than pre-booked.</p>
15.22	192	<p>Provisional proposal 31</p> <p>The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should <i>only</i> cover conditions relating to safety.</p>	<p>Agree. Further, the powers of local authorities should <i>not</i> cover any conditions relating to safety.</p>
15.25	192	<p>Provisional proposal 32</p> <p>The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement.</p> <p>Question 33</p> <p>What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel?</p>	<p>Agree. This would in any event be a basic requirement of good regulation and public law fairness.</p> <p>As 15.18 – taxi and private hire safety standards should be set on the basis of expert automotive standards, as set out in national and European Type Approval schemes and in the national standard for wheelchair accessible vehicles.</p>
15.26	193	<p>Matters relating to quality and fares are key examples where local decision-making for taxis would be valuable. The London</p>	<p>Fare setting clearly has a local dimension ‘Quality’ does not.</p>

	<p>Conditions of Fitness, including the turning circle, are an eminent example.</p>	<p>We have addressed this issue exhaustively elsewhere in this consultation response. We find it very troubling that the Commission should refer to the London Conditions of Fitness, including the turning circle, as ‘an eminent example of quality’ or the value of local decision-making.</p> <p>The London Conditions of Fitness are of no higher <i>quality</i> than many other local conditions; neither is the unusual turning circle a matter of <i>quality</i>. As set out above, vehicles with the tight turning turning circle can in no sense be said to be of better quality than those without; they simply have a different product feature.</p> <p>Authorities which have removed the turning circle requirement have not experienced any detrimental impacts as a result. (See Appendix A10). Cab drivers, who do the job, day in day out, more often choose vehicles without the tuning circle than with it, where they are given the choice. (See Appendix A9.) Cab drivers who have driven vehicles with the turning circle, then switched to vehicles without this particular product feature, very rarely go back to a ‘turning circle’ product. Mercedes Vito drivers in areas which demand the turning circle largely ignore this feature. (See Appendix 11.)</p> <p>In practice there are good quality vehicles and poor quality vehicles with the turning circle, just as there are good quality and poor quality vehicles without the turning circle (would you seriously rate a Metrocab with the turning circle as being of better <i>quality</i> than a Mercedes Vito without the turning circle?).</p> <p>We find this statement misleading and tendentious. It also ignores the fact that the High Court has found the turning circle requirement in London to be a restriction on free</p>
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			<p>movement contrary to EU law, which must be cogently justified by probative evidence and subject to a test of proportionality. Far from being an “eminent example” of the value of local regulation, it is an example of an outdated, disproportionate and probably unlawful regulatory intervention, which has been found (e.g. by Frontier Economics and the OFT) to reduce choice and competition, leading ultimately to a reduced range of vehicles, higher barriers to entry, and higher fares for consumers.</p> <p>It is the best example of why continuing to allow “gold-plating” at the local level will work against the interests of consumers.</p>
15.27	193	<p>Provisional proposal 34</p> <p>Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards.</p>	<p>Agree, but as at 15.10, such powers must be clearly defined, in relation to matters in which a local dimension can clearly be demonstrated and where there is appropriate local expertise. They should <i>not</i> include matters relating to safety (which should be a universal benefit, benchmarked against established national / international automotive standards) or matters relating to individual product features (including the size of a turning circle), which should (as the Licensed Taxi Drivers Association and other trade groups argue) be a matter for the market to determine.</p>
15.28	193	<p>. . A reformed system could limit licensing authorities’ powers.</p>	<p>It should, as indicated above.</p>
15.29	193	<p>Question 35</p> <p>Should there be statutory limits to licensing authorities’ ability to set local taxi standards?</p>	<p>Yes, as indicated at (15.27).</p> <p>We consider that any local regulation should be capable of being demonstrated to be in pursuit of a legitimate aim closely related to the provision of taxi services and proportionate, i.e. the least restrictive means necessary of</p>

			achieving that aim. Where such regulation results in preventing the use of vehicles lawfully manufactured and used in other Member States, that will amount to a restriction under Article 34 TFEU, which will require specific justification in accordance with EU law as described in the judgment of the High Court in <i>Lunt</i> .
15.43	197	Question 40 Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority?	No. Committed, career taxi driving is to be encouraged, including the local knowledge and skill that is built up as a result. Diluting this by providing additional licenses for peak-time business will in our view lead to poorer quality service, a poorer trade with lower quality vehicles and is in any event likely to be open to challenge in any deregulated environment.
Chapter 16		Reform of Driver, Vehicle and Operator Licensing	
16.11	203	In respect of taxis the London Conditions of Fitness are the most prominent example of locally-set conditions and they have also been adopted by other authorities outside of London.	Again, you appear to hold a peculiar affinity for the London Conditions of Fitness. In practice, these Conditions have now been dropped or amended by most of the authorities which were at one time persuaded to adopt them. Given that only 3% of licensing authorities in England & Wales follow these still conditions it is wrong to present these as some sort of market-leader. They are now widely recognised outside London as outdated and overly restrictive.
16.29	207	Provisional proposal 48 Operator licensing should be retained as mandatory in respect of private hire vehicles.	Agree.
16.42	210	Question 51 Should “fit and proper” criteria in respect of operators be	Yes.

		retained?	
Chapter 17		Reforming Quantity Controls	
17.6	212	As quotas provide for a protected income this makes quantity controls particularly susceptible to political considerations that bear no relationship to resolving a problem caused by market failure. This can lead to licensing authorities being accused of “regulatory capture”. This term describes the situation where regulatory decision-making has been disproportionately influenced by the relationship between regulator and regulatee.	Avoidance of scope for political influence over inappropriate matters is an important point. There is a long history, for example, of political (and regulatee) pressure being brought to bear in order to prevent authorities varying the London Conditions of Fitness. As you have noted, other regulatory interventions also have the effect of limiting taxi numbers. These include higher entry test requirements for new drivers and higher vehicle costs, as a result of peculiarly restrictive vehicle specifications.
17.12	213	The main arguments in favour of retaining quantity controls relate to the detrimental impact of negative externalities, such as congestion and environmental pollution, which can result from having an excessive number of taxis on the road. Rank spaces are limited. If all taxis sought to work at ranks at the same time problems of over-ranking would quickly arise, and indeed already do in many places. On the other hand, the experience of licensing authorities which have removed quantity restrictions and subsequently reintroduced them – at considerable expense – suggests they are considered valuable by certain licensing authorities.	Trade frustration regarding over-ranking has grown steadily over the past few years, particularly as areas have de-regulated. Notwithstanding the inconvenience and added fuel costs for the cab trade, this issue creates a major hindrance to modernising traffic goals of reducing city centre congestion and reducing harmful automotive emissions.
17.13	213	Taxi representative groups have also highlighted the potential benefits to the public through restricting numbers which flow from a more stable and better paid taxi trade. However, these could also be achieved through regulation targeted at ensuring suitable quality standards. Moreover, any perceived improvement in quality comes at a cost and consumers pay	We believe you under-estimate the impact on fleet quality arising from a marked increase in taxi numbers. You stress (though do not define) quality as an important goal of licensing regulation and the importance of considering what happens in practice, as well as what the law intends. The evidence is that overall fleet quality tends to be at its best in

	<p>correspondingly higher fares. This may be appropriate but these issues need to be addressed transparently rather than through the opaque lens of quantity controls.</p>	<p>currently regulated markets. We have also seen when quality has fallen substantially in the wake of de-regulation). A similar picture is evident in the degree to which drivers in regulated areas appear to perceive taxiing as a career (resulting in a much more committed attitude and build-up of experience) as opposed to deregulated environments, where a more transient 'filler-job' approach can become prevalent.</p> <p>You argue that similar quality enhancement could be achieved through regulation aimed at ensuring suitable quality standards. While it is a true that regular safety and condition checks must form part of the regulatory regime, we do not agree that quality regulations can give rise to a proactive pride in your job and in your vehicle. The cab driver who chooses to wash, vacuum and freshen his cab every day and/or chooses to buy a new vehicle every three years is making a genuine contribution to quality of experience for the travelling public. Of course driver attitudes to the job vary with each individual, across all parts the country. However, it remains the case that such behaviour is more typical of regulated areas and it is certainly true that a regulated, more stable fleet encourages positive voluntary behaviour of this nature. The reverse is also true – perhaps understandably so: in deregulated areas, with more and more new entrants coming and going with the oldest vehicles they can get through the regulations,</p>
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			<p>a 'race to the bottom' can overwhelm the motivation for career drivers to invest in exceptional day-to-day maintenance and presentation of their cabs, or newer vehicles.</p> <p>From our dealings with the trade across England and Wales over many years we consider that de-regulation does bring a substantial cost to the public in terms of diluted driver professionalism and fleet quality. On the other hand it is not clear that regulated number are linked to 'correspondingly higher fares' – fare tariffs being determined by the local authority, not the cab drivers.</p>
17.14	213	<p>Provisional proposal 54</p> <p>Licensing authorities should no longer have the power to restrict taxi numbers.</p> <p>Question 55</p> <p>What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers?</p>	<p>Disagree.</p> <p>Please see 17.12 and 17.13.</p>
Chapter 18		Taxi & Private Hire Reform and Equality	
18.2	216	Ensuring proper accessibility is a priority of this review.	This being so, it seems inexplicable that you advance no provisional proposals for addressing the principal structural issue – availability of sufficient suitable vehicles – facing the disabled would-be taxi user.
18.5	216	<p>Question 57</p> <p>Should there be a separate licence category for</p>	<p>No.</p> <p>The aim of anti-discrimination policy is to place disabled</p>

		<p>wheelchair accessible vehicles? This could involve:</p> <p>(1) a duty on the licensee to give priority to disabled passengers; and</p> <p>(2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles.</p>	<p>people in a position as similar as possible to that of non-disabled people. In this context that means being able to access a variety of suitably adapted vehicles as part of mainstream taxi and private hire fleets. This goal is, self-evidently, achievable, given that it is already the case (at least as far as taxis are concerned) in numerous parts of the country. Consequently, creating a special needs distinction for wheelchair accessible taxi and private hire vehicles would be a retrograde step for the disabled community.</p>
18.6	217	<p>We have considered whether it would be appropriate to introduce incentives encouraging the use of accessible taxi and private hire vehicles. An incentive such as this may help to offset the additional cost of purchasing a wheelchair accessible vehicle, and encourage more providers to consider using such a vehicle.</p>	<p>Varying license fees in this way would not be unhelpful, although local authorities will still wish to maintain the same overall level of license fee income. However it is important to consider the quantum of any such incentive; annual licensing fees average perhaps £2-300 (Newcastle – £255, Leeds £120, Cambridge - £195, Ipswich - £330, Portsmouth - £152, Southampton - £190), so the saving is unlikely to be significant.</p>
18.7	217	<p>Given our inclination towards having a range of vehicles which meet different needs, one option might be to introduce a range of fees relating to vehicles which satisfy different accessibility standards. This would mean that any vehicle which satisfied particular standards would benefit from a lower licence fee. Greater discounts could be available for the more specialised vehicles, or those including bespoke adjustments.</p>	<p>We can see the logic behind such a sliding scale but, as above, the net incentives are unlikely to be particularly great. In fact a very much more powerful incentive towards the goals of a range of vehicles to meet different needs is readily available (at no cost to local licensing authorities) simply by avoiding peculiarly restrictive vehicle specifications. Modern-style taxis highly suited to wheelchair users are available at least £6,000 cheaper than currently listed vehicles in areas regulated by the London Conditions of Fitness. London Conditions currently confer a diversity / accessibility disincentive affecting more than 25,000 cab drivers and many thousands of disabled people.</p>
18.8	217	<p>We have seen the effect of market forces in the private hire</p>	<p>This is true in some respects but we believe the position is</p>

		<p>industry, which can incentivise providers to explore innovative ways of supplying a particular need. This can benefit both those who wish to travel and those who provide the services.</p> <p>Question 58</p> <p>Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards?</p>	<p>overstated with regards to provision of wheelchair accessible vehicles in the private hire sector (see 8.47).</p> <p>Yes, this would be mildly helpful.</p>
		<p>Question 59</p> <p>Do you have any other suggestions for increasing the Availability of accessible vehicles, and catering for the different needs of disabled passengers?</p>	<p>Q59 – Yes. Our detailed proposals for reform are set out in part 1 of this consultation response. Greater emphasis should be given to the need to have a range of vehicles to meet different needs.</p>
18.9	218	<p>We have considered whether to recommend setting quotas for the number of wheelchair accessible vehicles in any fleet (perhaps including private hire vehicles), and this is a solution advocated by a number of users.</p>	<p>The wide disparity in availability of wheelchair accessible cabs from one locality to the next (see 11.22) is a key frustration expressed by many wheelchair users and disability organisations. Decades after the introduction of wheelchair accessible cabs, it is no doubt very frustrating wheelchair users in many localities that they still have access to very few (or even no) wheelchair accessible taxis. Regulatory intervention, in form of some level of quota, seems necessary, if we are to provide fairer and more meaningful assistance to people living in and visiting those areas of the country.</p>
18.11	218	<p>We also recognise that quotas may not be of assistance to many disabled people in a wheelchair because the availability of a suitable vehicle at the time and in the place they wanted to travel could not be guaranteed.</p>	<p>This seems to be discounting one solution because it may not be perfect. It can never be guaranteed that a taxi rank or private hire call centre will have a suitable wheelchair accessible vehicle available at every moment in time, but it</p>

		<p>Provisional proposal 60</p> <p>We do not propose to introduce national quotas of wheelchair accessible vehicles.</p>	<p>is guaranteed that there will be no wheelchair accessible vehicle availability if there are no wheelchair accessible vehicles at all. The propensity to availability will increase in line with the proportion of wheelchair accessible vehicles within the respective fleets. Moreover, the increasing use of smartphone apps to hail a taxi will allow users to pre-select the closest taxi of a particular make or model that best suits their needs.</p> <p>Disagree, for the reasons already given. This will simply turn a blind eye to the unmet needs of disabled people living in many parts of England and Wales, for whom the existing regulatory and legal regime makes no provision.</p>
18.12	218	<p>Many disabled people, in particular those using a wheelchair or people with assistance dogs, have either been refused service or have been unfairly discriminated against in the provision of the service. Whilst we know that many taxi and private hire vehicle providers give an exemplary service, we are of the view that more needs to be done to eradicate illegal and unacceptable practices.</p>	<p>Agree.</p>
18.13	218	<p>We therefore propose the introduction of a national standard requiring all taxi and private hire vehicle drivers to complete a recognised accessibility training course as a condition of holding a licence.</p>	<p>We agree with this concept. However this change will not adequately address the concerns noted at 18.12 or the more practical problems arising from a lack of accessible vehicles and/or a lack of choice of suitable accessible vehicles.</p> <p>At present most local authorities already require some level of disability awareness training. There is ample evidence of the difficulties experienced by wheelchair users in areas which already require training. Requiring training nationally is, therefore, a positive step but one that is unlikely to create a real change in disabled people's experiences throughout</p>

			<p>the country.</p> <p>No amount of training can help taxi drivers who are restricted to a very limited range of accessible vehicles which make it impossible or unreasonably difficult to correctly position and secure a wheelchair-using passenger. See HSE research referred to at 8.19.</p>
18.14	218	<p>(Cab drivers) may be concerned that carrying a disabled person in a wheelchair will lead to a reduction in earnings because it may take longer for that person to get in and out of the vehicle.</p>	<p>Experience around the country shows this to be a real practical issue. It follows that making available vehicles which make safe entry, travel and exist easier and quicker for both driver and wheelchair passenger will benefit driver attitudes as well as the overall quality of journey experience for wheelchair users.</p>
18.15	219	<p>There is also a safety aspect. Assisting a disabled person may require particular skills in lifting or supporting that person to ensure that both the driver and the passenger avoid injury. Drivers need to know how to secure wheelchairs properly in the vehicle. There is also the need to ensure that disabled passengers can travel comfortably and with dignity. Training should be able to assist with all of these skills.</p> <p>Provisional proposal 61</p> <p>National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training.</p>	<p>Absolutely there is a safety aspect. However a highly trained driver cannot safely position and secure a wheelchair user in a vehicle that makes this impossible or unreasonably difficult (for driver and/or passenger). Tipping a wheelchair on two wheels to manoeuvre them into position is not something that should form part of taxi driver training any more than it would be expected of hospital or care service workers. The issue here is with the vehicles, not the driver or driver training.</p> <p>Agreed – but much more requires to be done to address underlying structural issues.</p>

18.16	219	<p>We also believe more needs to be done to enforce the spirit of the Equality Act 2010. Despite the fact that it is unlawful to discriminate against a disabled person in the provision of goods and services, stakeholders have told us such discriminatory practices are not rare. The Equality and Human Rights Commission is the regulator and has a range of enforcement powers. The regulator will consider complaints and seek in the first instance to work with organisations to ensure compliance with legal requirements. In the most serious cases the Commission can seek an injunction to prevent illegal practices, or intervene in an action for judicial review.</p>	<p>Disabled people do indeed commonly report experience of such discrimination. However these observations do not address the fundamental problem and propose nothing to <i>improve</i> accessibility for disabled people. There is widespread disillusionment in many parts of the disabled community as regards the effectiveness of the Equality & Human Rights Commission in pursuing enforcement action. We are not aware of any injunctions or interventions in judicial review proceedings relating to taxi and private hire services by the EHRC, other than the case of <i>Lunt</i> (which was privately funded and was already well advanced when the EHRC decided to intervene)</p> <p>By way of contrast, the Law Commission has one opportunity to intervene to improve the law as it affects disabled taxi and private hire users in all parts of England and Wales. We hope the Commission will grasp that opportunity and bring forward positive reform proposals to deal with the underlying structural issues that have been identified.</p>
18.17	219	<p>In our view more can also be done at a local level to ensure that discriminatory practices are not condoned. Licensing authorities should take appropriate action against license holders who participate in discriminatory practices.</p>	<p>We agree, although our understanding is that most if not all licensing authorities already consider this part of their responsibility. The key point is the need for more proactive enforcement action, rather than simply awaiting complaints from disabled passengers. Again, much of this discrimination is likely to be caused by the fact that drivers are restricted to using vehicles that are simply not suitable</p>

		<p>Provisional proposal 62</p> <p>In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority.</p>	<p>for transporting wheelchair users.</p> <p>Agree but it is a poor organisation that monitors customer satisfaction simply through its complaints letters. The emphasis here should be on local authorities to undertake positive policing and adopt flexible licensing policies, rather than simply sit back and await complaints.</p>
18.18	220	The public sector equality duty also applies to local authorities in the carrying out of their functions.	As major issues affecting many would-be taxi and private hire users arise from the way in which the regulatory framework is (or is not) applied, more emphasis should be given to both the letter and spirit of the positive duty. In the first section of this response we have put forward positive proposals for addressing this problem, including by giving greater emphasis to the interests of disabled people in all taxi licensing decisions.
18.19	220	Taxis are not under a general duty to stop when hailed and our proposals would not seek to change this. On the other hand disabled passengers have frequently reported being ignored when hailing.	This is a very common frustration, particularly for wheelchair users and people with guide or assistance dogs. The use of smartphone apps for hailing taxis may improve this. We remain of the view that an important aspect of this is also ensuring that a range of suitable vehicles are licensed in any given area.
18.20	220	To help discourage discrimination it could be good practice for licensing authorities to require taxis to display their availability for hire by some obvious means to the public. This in turn could be coupled with a requirement to stop in response to a hailing if it is free and safe to do so. Although hard to enforce, such a requirement could at least provide some safeguards for disabled users.	<p>Part of the 'plying for hire' contract should be that the driver display a for hire light when available. This is common in most authorities, clearly helpful to the public in identifying which cabs are free and would help clarify leisure use.</p> <p>Whenever their 'for hire' light is illuminated, a taxi driver should be required to stop when hailed, regardless of the characteristics of the person seeking to hail them. This</p>

		<p>Question 63</p> <p>What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help?</p>	<p>should be viewed as a fundamental duty, linked to the right to ply for hire, not unlike the expectation for a bus driver to stop at a bust stop on his route. Justifiable exceptions would be where the driver could show that he/she had a reasonable expectation of danger or damage to his vehicle, for example from an aggressive group or person under the influence of drugs or alcohol..</p> <p>Enforcement action could readily be enhanced through periodic on-street observation and ‘mystery shopper’ exercises. Although not permanent, such random checks, allied to significant sanctions, would act as a meaningful disincentive to errant behaviour.</p> <p>Yes – as above.</p>

18.21	220	In Chapter 11 we noted that the divergence of disability needs means that it is difficult to even conceive of a truly universally accessible vehicle. Local licensing requirements whose effect is to stop willing market participants from providing vehicles that cater for (even rare) disabilities require careful scrutiny.	This goes to the nub of issues facing disabled people in particularly restricted market areas. ‘Careful scrutiny’, however, will not <i>improve</i> equality for disabled people in such circumstances. This review has correctly identified that there is a problem, and the cause of the problem, but no proposals are put forward to address it. We deal with this matter in detail in the first part of this response.
Chapter 19		Reforming Enforcement	
19.2	221	We have identified a number of areas for potential reform:	Given the priority accorded to proper accessibility in your

		<p>(1) enhancing licensing officers' enforcement powers; (2) the use of penalty point schemes to target enforcement at persistent offenders; (3) improved powers to deal with touts and providers of unlicensed services; (4) cross-border enforcement; and (5) funding enforcement action.</p>	<p>review, it would be helpful to add a further point in this list:</p> <p>(6) requiring licensing authorities to ensure that disabled passengers are accepted, treated appropriately and enabled to travel safely.</p> <p>From the public perspective, the key concerns surround safety and quality; consequently more consistent application of regular condition checks, together with firm action against unlicensed drivers, are top priorities for enforcement action. Enforcement action towards touts and providers of unlicensed services, including cross-border infringements, are of particular concern to the trade.</p>
19.4	221	The perceived lack of effective enforcement is of extreme practical importance. Limited resources, with only a few licensing officers typically covering a large number of licensees, is one factor.	This is very much in evidence around the country. In most areas, cab drivers lament a gross lack of visible enforcement activity, especially at peak times. Licensing officers can often be, at least to some extent, accepting of this criticism but point to extremely limited resources for the tasks in question.
19.5	221	Local authority enforcement officers do not have powers to stop a vehicle, although they do have powers to inspect licensed vehicles for fitness. This means that to take effective enforcement action authorities frequently need to work with the police and perhaps the Vehicle and Operator Services Agency.	Such initiatives have proved successful in identifying vehicle defects. Given appropriate communication and management, conscientious cab owners often welcome such activity.
19.6	222	Question 64	Yes.

		Should authorised licensing officers have the power to stop licensed vehicles?	
19.7	222	Enforcement against completely unlicensed vehicles is also a serious problem. Areas where there is a high demand for taxis are at a high risk of touting. This is true of airports and town centres with a lively night-time culture for example. Whilst in any regulated trade there will always be a degree of illegal activity by those who refuse to come within the regulatory boundaries, we appreciate that touting is currently difficult to enforce against and to deter, at least in some situations.	It would be wrong to suggest that touting is <i>only</i> a factor in areas where license <i>numbers</i> are regulated. (We do not believe this to be your intention here but it is possible to read this paragraph that way.)
19.8	223	Question 65 What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”.	Addressing touting effectively is a crucial issue, both for the safety of the public and the reputation of the trade. We suggest that any attempt to solicit persons to hire vehicles to carry them as a passenger, made in a public place or via any public medium, should be a criminal offence. The key factor in tackling this problem will be to ensure more proactive field-work, in order to prosecute prominent offenders and act as a meaningful deterrent to others. Penalties for wrong-doing should be significant.
19.11	223	Question 66 Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules?	Yes – subject to appropriate rights of appeal.
19.19	225	Provisional proposal 68 Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas.	Yes – subject to appropriate rights of appeal.

19.28	226	Question 69 Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this?	On balance, we think this would be better addressed through formal procedures for cross-border cooperation, similar to those that you outline at 19.25.
19.29	227	Funding is a key element of effective enforcement. Under the current law licensing is generally self-funding	We suggest that it is reasonable for the trade to be expected to fund valid costs for enforcement action relating to regulation of their activities (licensing renewals, vehicle condition checks, etc). This does however raise issues of evaluating the cost efficiency with which a local authority carries out such services, which should perhaps be subject to periodic testing against their party contractors. Other aspects of licensing enforcement (touting by unlicensed providers, for example) represent protection of public safety against external criminal activity. We do not think it fair or reasonable that the burden arising from such work should fall on taxi owners or drivers, who are after all among the victims, rather than perpetrators, of such offences.
Chapter 20		Reform of Hearings and Appeals	
20.10	229	Under the current law such local policies can only be challenged by judicial review.	There are inherent issues with reliance solely on judicial review in order to ensure that local licensing policy conforms with relevant legislation. Firstly, an authority may be able to hide behind a previously-taken decision in order to avoid grappling with new circumstances; Transport for London, for examples, claims that its licensing policy cannot even be reviewed in light of new circumstances because in 2007 it promised manufacturers that conditions would be locked in place for at least 10 years. Secondly, authorities can avoid

			any challenge by judicial review by avoiding taking any decision in the first place. Take for example those authorities which, since the passing of the Equality Act in 2010, have embarked on reviews of the accessibility of their taxi fleets but managed never to actually reach a decision. Not taking a decision is too easy an excuse for not grappling with important issues. One answer may be to place a statutory limit of, say, three months for a local authority to determine any application for a particular vehicle, and an obligation to give reasons for any refusal to licence a particular type of vehicle for use.
20.14	230	<p>We recommend that statutory rights of appeal should be limited to the applicant or licence holder. This is because general conditions will only be susceptible to challenge via judicial review, which is available to a broad category of interested parties.</p> <p>Provisional proposal 70</p> <p>The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence.</p>	<p>As we have seen, taxi and private hire licensing decisions can have far reaching implications, not least on the communities that they impact. We consider reliance solely on judicial review to be unreasonable and impractical, given the both the costs implied and other issues connected with judicial review, including those stated at 20.10. We think appeal rights should be available to any aggrieved person, which would include the manufacturer of a vehicle which a local authority refuses to licence.</p> <p>Disagree, for the reasons indicated above.</p>
20.17	231	<p>Provisional proposal 71</p> <p>The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision.</p>	Agreed.

20.13	232	<p>Provisional proposal 72</p> <p>Appeals should continue to be heard in the magistrates' court.</p>	<p>Following from the analysis that you offer at 20.20, we consider that appeals regarding decisions in relation to the application of policy to individual circumstances should be heard at the magistrates' court, whereas appeals involving the substance of policy would be better matched to the expertise of the Administrative Court.</p>
20.25	233	<p>Question 73</p> <p>Should there be an onward right of appeal to the Crown Court?</p>	<p>Yes, the potential importance of licensing matters to people's livelihoods makes it necessary to have an onward appeal on the merits, although we would question whether the Crown Court is more appropriate than the High Court for this purpose.</p>

Dear Sirs,

Ref: **Reform of Private Hire and Taxi licensing regulation**

2) *Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation (page 172)*

We refer to the above and we would like to object most strongly to Proposal 11.

This would invoke an onerous amount of red tape and additional cost for the licensing of vehicles and drivers for funeral firms who operate in a very price sensitive industry.

Practically the adaptation of limousines to carry disabled passengers would be very expensive and not necessary. On the rare occasions that a disabled person needs transport provided by the funeral director, then there are already private hire firms available with suitable vehicles, which the funeral director can utilise.

To expect funeral directors who have to invest considerable sums of money (the largest investment, other than freehold premises) in limousines, that have no guaranteed usage, to have to spend further money on adaptation or having to take losses on vehicles that have become obsolete, due to these potential changes, is totally unacceptable.

Funeral directors provide a service from which they need to generate enough income for re-investment and to provide all too often, very modest living standards for the owners and their employees.

From: J Byrne [REDACTED]
Sent: 10 September 2012 17:19
To: TPH
Cc: s [REDACTED]
Subject: Refroming of the law of Taxi and Private Hire Services

Dear Sirs,
I have just learnt of the proposed changes to affect the current exemption of funeral vehicles from private hire and taxi licensing.

My company: Dorchester Limousines (Funeral Carriagemasters), operates a fleet of funeral vehicles, comprising both hearses and limousines, which are used solely for funeral work.

I hereby wish to register my strong opposition to the proposed changes on the following grounds:

- 1) My business operating costs would be significantly affected and no longer sustainable by me and would therefore make it too costly to continue to operate.
- 2) I cannot see how you can associate a hearse and limousine(s) used solely on funeral duties with the duties and purpose of taxis, private hire or wedding vehicles. The hearse and limousine(s) actually form the funeral cortege and cannot be considered in the same way as a taxi or private hire vehicle.
- 3) If the proposed legislation comes into force I would be faced with no alternative but to release 15 part-time drivers of their jobs and close the business down.

The funeral business is the second oldest profession in the world, so please leave it alone!

Regards,

James Byrne
Dorchester Limousines (Funeral Carriagemasters)

[REDACTED]
[REDACTED]
[REDACTED]
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[REDACTED]
[REDACTED]

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**SUBMISSION TO THE LAW COMMISSION CONSULTATION:
REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES**

1. I am a commercial barrister called in 1999.
2. For ten years now I have specialised in taxi and private hire vehicle licensing as an adjunct to my commercial chancery practice. Throughout that period I have acted in numerous licensing disputes for Blue Line Taxis, a large private hire operator in North Tyneside. I have also acted for other private hire operators, for hackney carriage proprietors, for local authorities and for Northumbria Police.
3. Unsurprisingly, I am also a frequent user of hackney carriages and private hire vehicles. Several times a month I arrive at some distant train station in an unfamiliar town, often burdened with heavy papers, usually uncertain about where I am going, always looking for a taxi to take me to the local court or my client's offices or my hotel.
4. I make this submission in an entirely personal capacity. On this occasion I do not speak for Blue Line or for any other client. It may well be that some of my clients will disagree with the contents of this document.
5. I have confined myself to matters with which I am familiar. I have not sought to address all of the matters raised in the consultation paper.

The status quo

6. It is my firm view that outside of London the public is ill-served by both hackney carriage and private hire trades, but especially by the hackney carriage trade.

7. It is also my firm view that this is entirely attributable to over-restrictive and ill-conceived regulation. As a specialist lawyer and as a user of these services, it appears to me that the current scheme of regulation is concerned more to protect the livelihoods of established traders than it is concerned to promote a safe, efficient and high quality mode of public transport.
8. It is further my firm view that hackney carriages in most respects are worse than private hire vehicles. This is because of—not in spite of—the greater regulation of hackney carriages and their drivers. It is my experience that hackney carriages are particularly bad where there is a quota: in Newcastle upon Tyne, where I work, where there is a quota, and where a plate is “worth” £40,000 to £50,000, I am unwilling to use hackney carriages, so bad are they.
9. My experience of hackney carriages across England and Wales is that the vehicles themselves generally are of a very low standard. I feel uncomfortable and unsafe in most hackney carriages. They are cheap, they are worn out (this is apparent to me from the state of their interior fittings, the responses of their suspensions and their odometer mileages), they are superficially clean but generally smelly and dirty inside and banged up on the outside.
10. I find the hackney carriage drivers to be a match for their vehicles. They are surly and aggressive in manner, rough and hostile in appearance. They almost never wear a tie or any kind of uniform unless associated with one of the better private hire operators. They also are ill-informed: when visiting a far-flung court for the first time, I always research its location because I have no confidence that my taxi driver will know how to get there from the station. Finally, the standard of their driving is of a low order: I see this as a passenger and as a motorist (I drive 55,000 miles every year in my own vehicles). They drive sloppily, arrogantly, aggressively and without courtesy for their passengers or other road users. Knights of the road they are not.

11. My professional work suggests that often there is a proximity, perhaps an overlap, between the hackney carriage trade and organised crime.
12. Private hire vehicles are better but too often they are not good enough. Generally, private hire operators' fleets are comprised of better quality cars, they will not employ or contract with the lower standard of driver and they insist their drivers wear a uniform. Their businesses are bigger than that of the one-man-band hackney carriage driver and so less amenable to sharp practice.
13. Some private hire operators plainly seek to compete on quality as well as price. In Newcastle upon Tyne, Grosvenor Cars is a private hire operator specialising in the provision of high quality vehicles—generally late-model Audi A6, BMW 5er, Mercedes-Benz E-Class or Volvo S60 cars—and drivers; my client Blue Line has a modern fleet with a large number of high specification Ford Mondeo vehicles and insists upon its drivers wearing a uniform. But even still, private hire vehicles and drivers in my experience generally are unsatisfactory in most respects.
14. The hackney carriage and private hire trades also are characterised by an absence of large, well-funded, well-organised national players. There is no leading brand: no Tesco, no Marks and Spencer, no John Lewis, no Vodafone, no Pizza Express, no McDonalds, no Pret A Manger, no Arriva, no Stagecoach, no National Express, no Virgin. Nobody can supply me with a car and driver no matter which railway station I am at. There is no national number I can call for a car anytime, anywhere.
15. The hackney carriage and private hire trades are like something out of the commercial dark ages.

Key issues

16. I attribute the poor state of provision of hackney carriage and private hire services to the utterly stifling effect of the present scheme of legislation.

(1) Local regulation is inappropriate.

17. First, journeys by taxi or private hire vehicles simply are not constrained or affected by local authority boundaries. Such boundaries are meaningless and irrelevant to customers. I refer to an independent survey commissioned by my client Blue Line Taxis on this very issue (appendix I).
18. Second, markets for taxis and private hire vehicles are more expansive than local authority boundaries and, crucially, are overlapping. This is especially so in this age of geographically small but economically concentrated metropolitan councils surrounded by geographically wide but economically thinly spread counties, boroughs and districts. By way of example, Newcastle upon Tyne is at the heart of an economic area that extends into Durham, Gateshead, North Tyneside, Northumberland, South Tyneside, Sunderland and arguably Cumbria and Teesside.
19. Insofar as there are any meaningful geographical boundaries to the markets for taxi and private hire services, they are soft, penumbral almost. Our country is not made up of perfect circles whose circumferences touch but do not overlap and which each have at their very centre a town.
20. Third, now that the motor vehicle has reached a point of maturity in its development and has become the subject of rigorous and expert international standardisation of its construction and operation and features across all marques and models, there is no justification for subjecting it to local standards. It is absurd for different local authorities to have different standards when cars are the same across the world and when cars are built to extraordinarily rigorous standards set at a European level by experts.
21. Fourth, local differences make life harder for customers. It should be obvious to a customer, no matter where in England and Wales he may be, whether or not any particular vehicle is a hackney carriage or a private hire vehicle. And he should be entitled to expect any taxi or private hire vehicle, no

matter where he is, to be at least as good as the last. This is achieved by having a national standard and making it a high standard. As things are, the stranger in town has no way of knowing what that town's hackney carriages look like. They should all be the same the country over.

22. Fifth, the quality of local authority enforcement and legal departments all too often is low. Taxi and private hire matters are of low grade importance compared to the other work they do; the law is Byzantine in its complexity; and they often are under strong, sometimes unsavoury, pressures from elements of the trade or from political influences.

(2) The prohibition on cross-border hiring is bad for customers

23. Any successful business will want to grow.
24. Successful businesses become successful by serving the market better than their competitors. "Better" does not always equate to "cheaper" although price inevitably is a component of value.
25. It is absurd to confine an operator to the area in which he is licensed. An ambitious operator will want to serve customers across the land; he will want to carry them on journeys across the land; and he will wish to have at his disposal a fleet many times larger than the entire fleet of even a large local authority. He will only achieve these ambitions by serving the market well.
26. There is no downside to cross-border deregulation.
27. There is a concern that such deregulation will lead to the build up of big players to the detriment and exclusion of existing proprietors, drivers and operators. So what? It is not the function of any regulatory scheme to preserve the vested interests of an established trade at the expense of the public. In order to compete, they will have to up their game. That would be a fine result.

28. In any event, this economic competition is extraordinarily cheap to enter: all you need is a car, a telephone and a licence.

29. That it is so cheap and easy to get into this market should allay any fear that the emergence of big players will lead to patchy customer service.

(3) *The two tier system is unnecessary*

30. The public does not fully understand the difference between hackney carriages and private hire vehicles. It is fertile ground for dispute. And local authorities find it burdensome and hard to enforce.

31. The two principle arguments in favour of the two tier system seem to be:

(1) because a hackney carriage customer has no choice over who serves him—he has to take the vehicle which happens to be passing (in the case of a hailing) or at the head of the rank (in the case of a walk up)—it is necessary to have a higher standard for vehicles which can ply for hire;

(2) without the two tier system, at times of peak demand for hackney carriages (i.e closing time on Friday and Saturday nights), operators of private hire vehicles might find that their fleets disappear as drivers capitalise on the availability of hackney work.

32. Neither argument is very forceful. The first can be dealt with by setting a high standard for all vehicles. In other words, rather than have two tiers, simply require that all vehicles are of a standard which is appropriate for plying for hire. The second concern is a matter of contract between operators and drivers.

33. It is my considered opinion that the public would be better served by a single tier of hire vehicle under which vehicles have to meet high standards of safety, functionality and appearance, which standards should be consistent nationwide.

Other matters

(1) limousines

34. Limousines and their drivers should be licensed separately from private hire vehicles.
35. Customers want limousines precisely because they are not hackney carriages or private hire vehicles.

(2) licensing objectives

36. When it comes to vehicles, matters of safety, while obviously the principle licensing concern, should not be the sole licensing concern: quality and appearance (both of which touch on safety anyway) also should be the subject of standards.

(3) "fit and proper", vehicle proprietors and operators

37. It is my firm view that both vehicle proprietors and operators should remain subject to the fit and proper test. First, there is a strong association between this trade and elements of criminality. Second, in reality, proprietors and operators have the most influence over how a vehicle is run or a business operated. The drivers are, usually by virtue of economic necessity, in the weakest position of all and have very little ability to refuse the improper demands of a proprietor or operator of bad character.

Summary

38. My submission makes the following core points:
- (1) local differences in regulation should be minimised;
 - (2) cross-border hiring should be permitted;
 - (3) vehicle and driver standards should be national and consistent and high;

(4) such standards should be concerned with matters of safety, quality and appearance;

(5) quotas should be abolished;

(6) there should be a single tier of vehicles;

39. I hope this document is of some utility to the Law Commissioners. The consultation paper is an excellent start to the work of reform: to read it was extremely refreshing for one who has wrestled with the inadequacies of the present regime. I would very much like to express my gratitude to its authors.

JONATHAN RODGER

Enterprise Chambers

[REDACTED]

[REDACTED]

10 September, 2012

Appendix I

Taxi Service Use in Newcastle: Data Collection Exercise

August 2011

Commissioned by: Nicholson & Morgan Solicitors

Prepared by: Darryl Humble, Independent Researcher

1.0 Introduction and background

This dataset explores the motivations and understanding of taxi services in the Newcastle area by consumers of taxi services. The following includes an overview of the research methodology, a brief biography of the researcher and a breakdown of the data by survey question.

The researcher was approached by Nicholson & Morgan Solicitors who were acting on behalf of Blue Line Taxis at Newcastle Magistrates Court. The request was to carry out a focused data collection exercise on consumer motivations and understandings of taxi services in Newcastle. Full details of the survey questions, survey location and sample size were provided by Eric Nicholson and following a consultation meeting between Mr Nicholson and the researcher, the survey was carried out on the 29th and 30th July 2011.

2.0 Methodology

The methodological approach taken is based entirely on the brief outlined by Eric Nicholson and was refined by the researcher, in consultation with Mr Nicholson. The initial brief included five questions and a request for 100 – 250 people to be surveyed in a central location of Newcastle City Centre.

2.1 Survey question

The initial five questions developed by Mr Nicholson were reviewed to ensure that they were appropriate to the target respondents, that the questions would be understandable and would not lead respondents or confuse them in anyway. The review satisfied the researcher that the questions were acceptable for a data collection exercise of this kind, however it was decided to reorder them to ensure clarity and flow of the survey.

The researcher also decided to leave key questions open ended to avoid predefining the potential responses from respondents.

2.2 Sample

Whilst the initial brief requested a sample of 100 – 250 respondents the researcher decided to approach as many respondents as possible to collect 200 complete responses. In view of the fact that market research by national research companies limit their national research sample to around 2000 respondents¹ 200 was considered an acceptable size sample for research that would be carried out in Newcastle city centre. The sample size was discussed and agreed by Mr Nicholson during the consultation meeting.

The total number of respondents approached was 279. This enabled a data set of 200 responses to be collected.

¹ This is recognised in 'The Good Research Guide' by Martyn Denscombe published in 2003 by The Open University Press.

2.3 Survey location

The survey was carried out at Grey's Monument and the surrounding streets on Friday the 29th July between 1330 and 1700 hours and on Saturday the 30th July between 1100 and 1500 hours. This location, in the centre of the City, is a busy hub with a broad range of people networking with and meeting others, resting and shopping in the area. On both days the weather was sunny and as a result there were large numbers of people present in the area during the period the survey was being carried out.

3.0 Researcher biography

The researcher has a BSc (Hons) in Sociology and Social Research awarded in 2004 by Northumbria University; an MSc in Social Research awarded in 2005 by Northumbria University and is currently completing a research PhD also at Northumbria University. Since completing his undergraduate degree in 2004, the researcher has been involved in developing, seeking funding for and carrying out a number of research projects, including research funded by Northumbria University, Northumbria Student's Union, The Economic and Social Research Council, the Department for International Development and the International Textile and Garment Leather Worker's Federation. These projects were all carried out at either Northumbria University or Newcastle University through roles as a Research Assistant, Senior Research Assistant or Research Consultant.

Researcher contact email: darryl.humble@gmail.com.

4.0 Data set

The following sections display the survey results by question.

4.1 Question 1: Which three main factors influence your choice of taxi firm?

This question was asked without using a prompt card to ensure that only respondent's choices were logged. No verbal prompts were given and where respondents could only think of one or two responses the remainder were listed as 'no response given'. All respondents answered this question.

The following breakdown includes all responses (including 'no response given') which are listed in rank order.

4.1.1 First factor identified

The following table identifies the first factor given by all respondents.

Rank	Response	%
1	Price/cost (cheapness)	41.5
2	Close to home	8.5
3	Reliability	8
	Speed to arrive/prompt to pick up	8
4	Memorable number	3.5

TAXI SERVICE USE IN NEWCASTLE

5	Recommendation	3
6	On time	2.5
	Availability	2.5
	Driver	2.5
7	Efficiency	1.5
	Habit	1.5
	Safety	1.5
	Start location	1.5
8	Convenience	1
	Call Centre	1
	Distance to go	1
	Familiarity	1
	Reputation	1
	Start fare	1
9	24 hour service	0.5
	Advertising	0.5
	Area knowledge	0.5
	Clean	0.5
	First on Google	0.5
	Fleet size	0.5
	Flexibility	0.5
	Good service	0.5
	Memorable name	0.5
	Not a black cab	0.5
	Peak service	0.5
	Pick up time	0.5
	Popularity	0.5
	Text back	0.5
	Trust	0.5
	Type of car	0.5
Totals		100

This table shows that the most important first factor influencing choice of taxi firm is the cost of the journey, with 41.5% of respondents identifying this. The second factor here is its closeness to home (8.5%) and reliability (8%).

4.1.2 Second factor identified

The following table identifies the second factor given by respondents.

Rank	Response	%
1	Price/cost (cheapness)	31
2	Speed to arrive/prompt to pick up	14
3	Reliable	12
4	'No response given'	7
5	Availability	5.5
6	Nice drivers	3.5
7	Arriving on time	3
	Near to home	3
8	Safety	2.5

TAXI SERVICE USE IN NEWCASTLE

9	Memorable telephone number	2
	Cleanliness of vehicles	2
	Operating in the area	2
10	Friendly staff/positive attitude of staff	1.5
	Overall customer service	1.5
11	Trustworthy/familiar	1
	Journey speed	1
	Recommendation	1
	Set fare/prices	1
12	Starting location	0.5
	Whether alone or not	0.5
	Vehicle quality	0.5
	Value for money	0.5
	Comfort	0.5
	Distance to go	0.5
	Text back service	0.5
	Number already in phone	0.5
	Efficiency	0.5
	A 'proper taxi'	0.5
	Reputation	0.5
Totals		100

This table shows that the most important second choice factor continues to be price related (31%) with speed to arrive as second (14%) and reliability (12%) as third.

4.1.3 Third factor identified

The following table shows the third factor given by respondents.

Rank	Response	%
1	'No response given'	35
2	Reliable	7.5
3	Cost	7
4	Arrival speed	6.5
	Driver	6.5
5	Availability	3
	Distance to home	3
	Safety	3
	Politeness of staff	3
6	Start location	2.5
	Text/call back	2.5
7	Cleanliness	2
	Customer service	2
	Operators	2
	Number easy to remember	2
	Recommendation	2
8	On time	1.5
	Reputation	1.5
	Vehicle size	1.5

TAXI SERVICE USE IN NEWCASTLE

9	Familiarity	1
	Speed to destination	1
	Quality of vehicles	1
10	Type of firm	0.5
	Pay by card	0.5
	Trust	0.5
	Habit	0.5
	Knowledge of area	0.5
	Dog allowed	0.5
Totals		100

This table shows that the greater number here didn't give a third response (35%) with those that did identifying that reliability (7.5%) and cost (7%) are significant factors.

4.2 Question 2: What do you ask for if you call a taxi firm?

A prompt card was used with this question and included the following responses in this order:

- | |
|--|
| <p>a. PRIVATE HIRE VEHICLE
b. HACKNEY CARRIAGE
c. TAXI</p> |
|--|

All respondents answered this question.

The following table shows the responses to this question

Rank	Response	%
1	Taxi	95
2	Private Hire Vehicle	4
3	Hackney Carriage	1
	Total	100

This table shows that the majority of respondents (95%) ask for a taxi when calling a taxi firm.

4.3 Question 3: Do you know the difference between a hackney carriage and a private hire vehicle?

No prompts were given with this question however those respondents that answered yes were asked to give an explanation. All respondents answered the question.

The following table shows the number of responses to this question.

Rank	Response	%
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TAXI SERVICE USE IN NEWCASTLE

1	No	51
2	Yes	49
	Total	100

All respondents who answered yes gave or were asked to give a description of the differences.

Of the 49% of respondents that indicated that they did know the difference between hackney carriages (HC) and private hire vehicles (PHV) the following table indicates the explanations given. All responses regardless of whether they are accurate are logged as yes responses. Figures in this table are in percentages and are rounded to the nearest whole number.

Rank	Response	Percentage (of people who said yes to question 3)
1	HC can pick up anywhere where as PHV have to be booked in advance	65
2	HC are the big black cabs	19
3	HC have a council license of badge	6
4	Size of vehicle	4
5	HC are more expensive	3
6	HC have different licenses	1
7	Private hire vehicles for parties	1

4.4 Question 4: Do you use Blue Line Taxis?

No prompts were given with this question. All respondents answered this question.

Rank	Response	%
1	Yes	76
2	No	24
	Total	100

Those that answered yes, were then asked questions 4.1, 4.2 and 4.3.

4.4.1 Question 4.1: Where is Blue Line's office?

The responses to this question show that 33% of those that answered yes to question 4 thought they knew where the Blue Line office is located. 67% did not know the answer.

The following table shows the locations identified by the 33% of respondents that thought they knew where the Blue Line office is located. Figures in this table are in percentages and are rounded to the nearest whole number.

Rank	Response	%
1	Wallsend	66
2	Byker	12

TAXI SERVICE USE IN NEWCASTLE

3	Gosforth	6
4	Newcastle	4
5	South Shields	4
6	Gateshead	2
7	Different places	2
8	Felling	2
9	Swing Bridge	2
10	Jesmond	2

4.4.2 Question 4.2: Which council licenses Blue Line?

The responses to this question show that 30% of those that answered yes to question 4 thought they knew which council licenses Blue Line. 70% did not know the answer.

The following table shows the councils identified by the 30% of respondents that thought they knew which council licenses Blue Line. Figures in this table are in percentages and are rounded to the nearest whole number.

NB some respondents thought that Blue Line were licensed by both North Tyneside and Berwick Councils and Newcastle and Gateshead Councils. These have been entered into the following table as a response in their own right as all responses are logged.

Rank	Response	%
1	Newcastle	49
2	North Tyneside	36
3	Gateshead	4
4	North Tyneside and Berwick	4
5	Alnwick	2
6	Northumberland	2
7	Newcastle and Gateshead	2

4.4.3 Question 4.3: Which council licenses Blue Line's Vehicles?

The responses to this question show that 24% of those that answered yes to question 4 thought they knew which council licenses Blue Line. 76% did not know the answer.

The following table shows the councils identified by the 24% of respondents that thought they knew which council licenses Blue Line's vehicles. Figures in this table are in percentages and are rounded to the nearest whole number.

Rank	Response	%
1	Newcastle	51
2	North Tyneside	41
3	Gateshead	5
4	Alnwick	3

5.0 Data set summary

In responding to the brief developed by Nicholson and Morgan Solicitors this data set demonstrates the motivations and habits of taxi users in the Newcastle area. This data set offers insights into the habits of the 200 people surveyed in central Newcastle on the 29th and 30th July 2011.

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Public Law Team (Taxi and Private Hire)
Law Commission
Steel House
11 Tothill Street
London, SW1H 9LJ

10 September 2012

Dear Sir/Madam,

RE: Reforming the law of taxi and private hire services

The Federation of Small Businesses (FSB) welcomes the opportunity to respond to the above named consultation.

The FSB is the UK's leading business organisation. It exists to protect and promote the interests of the self-employed and all those who run their own business. The FSB is non-party political, and with around 200,000 members, it is also the largest organisation representing small and medium sized businesses in the UK.

Small businesses make up 99.3 per cent of all businesses in the UK, and make a huge contribution to the UK economy. They contribute 51 per cent of the GDP and employ 58 per cent of the private sector workforce.

While we support the main thrust of the proposed reforms our main concern is that two so dissimilar trades as the taxi trade and private hire vehicle trade are brought together under the same legal framework. The impact of the current proposal is set out below.

We trust that you will find our comments helpful and that they will be taken into consideration.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'N. Hoose', is positioned below the 'Yours sincerely,' text.

Professor Neil Hoose
Chairman of the Infrastructure Policy Unit
Federation of Small Businesses



Federation of Small Businesses

the UK's leading business organisation



FSB response to consultation on reforming the law of taxi and private hire vehicles

September 2012

Introduction

Reform in this area is an important issue for the FSB. Five percent (10,000 members) of the FSB membership are businesses in transport or in trades relating to transport. Of those approximately 1500 members are in the taxi trade and several hundred in the private hire vehicle trade.

We agree that the legislation for taxis and private hire services in England and Wales needs to be reformed. The current legislative framework is inconsistent and confusing for operators as well as passengers. The legal framework that eventually emerges must be consistent across England and Wales. New professional standards would make taxis and private hire vehicles a much more attractive transport option for customers.

The point of this reformed legislation is simplification and clarification of the law. We must make sure that it does not lead to more complex regulation. It also goes without saying that it is important that the consultation and legislation process is fully completed. During the last round of consultations and the Green Paper in 1993-1997 circumstances were dramatically changed by a surprise General Election. The issue has been latent since then and now needs closure.

Our main concern with the current proposal is that two so dissimilar trades as the taxi trade and private hire vehicle trade are brought together under the same legal framework. The impact of the current proposal is set out below.

Private hire vehicles

Possibly the most controversial proposal for FSB members is that wedding cars and funeral cars should no longer be excluded from private hire licensing.

Removing the exception for wedding and funeral cars would severely impact on many small operators across the country – some may even be forced out of business.

Wedding and funeral cars are niche trades with specific characteristics. For many operators it is their work as well as their hobby and they invest a lot of effort in keeping their fleet of vintage cars in pristine condition. When they need repairing the owner cannot use a regular garage but has to visit a specialist garage to repair their vehicle. It can be argued that these period vehicles are part of the British national heritage and as such they are a trade that should be safeguarded rather than regulated out of business.

Insurance and usage of wedding and funeral cars is also very different from the average usage of a taxi. It is rare to find a wedding/funeral car using a motorway as these cars are driven at much more leisurely



speeds and are not in a hurry to pick up the next job. Wedding/funeral cars have a low mileage (roughly 1,500 miles per year whereas a taxi easily run up in excess of 30,000 miles per year).

Wedding/funeral cars are low risk vehicles and insurance premiums reflect that as they are significantly lower than for taxis.

Also the nature of the relationship with their customers is different and therefore we argue that there is little need for regulation. Customers choose a wedding/funeral car company and negotiate with the owner rather than simply hiring them and this process makes every hire unique.

The proposals as they currently stand would mean a significant cost increase for small private hire vehicle firms mainly due to the cost of the licence but also the new rules around the qualification of drivers.

Spirit Wedding Cars is a member of the FSB and the owner said:

“The cost increase if this proposal was to go ahead would be in the region of £3,000 per year for Spirit Wedding Cars.

For us £3,000 equates 12 weddings in one year and is approximately 15 per cent of our turnover. In addition to these proposed fees we have the usual business costs such as fuel, road fund licence, car maintenance, marketing, insurance and so on.

It is an untenable situation.”

All wedding/funeral car businesses that we have spoken to about this proposal have said that their business will be unsustainable and that they will most likely shut down.

Taxis

By contrast to private hire vehicles, taxis can work 7 days a week 365 days a year, somewhat justifying the high costs involved in purchasing an operator’s licence, carry out annual testing, CRB, DSA test and driver medical examinations.

The new legislation must clarify the definition of a taxi. To most people is quite clear what a taxi is, the issue is when operators abuse the title. The public must be able to distinguish between private hire taxis and hackney carriages.

The FSB believes all licensed vehicles should have clearly identifiable plates (taxi, private hire, executive hire and so on). This will help customers make a more informed choice about what type of taxi they are

using. Plating all licensed vehicles also helps prevent touting, where unlicensed drivers pick up people in the street illegally.

Another issue for the taxi trade is that there are 341 different licensing authorities, all with the ability to set their own rules and regulations. This means that getting licensed in one area can be much harder than in the neighbouring local authority. This is neither fair nor consistent.

The number of licensing authorities must be reduced to a more reasonable number. The authorities should reflect some form of sub regional structure and the size of them would depend on demand in that particular area.

The FSB suggests using a 'home' licensing system which would mean that taxis only had to register once at their Local Authority.

Finally it has been suggested that child minders, care workers or even mothers taking children to school should have a private hire licence and the FSB believes this is wrong and has seen no convincing evidence why this measure is needed.

For further information

Ulrika Diallo
[REDACTED]

Federation of Small Businesses
[REDACTED]

CHILTERN DISTRICT COUNCIL

HEAD OF HEALTH AND HOUSING- MARTIN HOLT BSc., CMCIH



18 October 2012

Dear Sir/Madam,

We have pleasure in providing a response to your consultation on hackney carriages and private hire. The response was jointly developed with South Bucks District Council with some additional comments from the Chiltern Licensing & Regulation Committee.

I would like to highlight three key general points following the Committee discussion:

- It is felt that a single system of licensing would be preferable to retaining a two tier system.
- It was strongly felt that a mechanism is required to raise the number of disabled access vehicles whilst appreciating that this is a time of economic difficulty.
- It is felt that the proposed changes could reduce the local elements of the service with many policies removing control from local policies to nationally decided ones.

Specific responses to each proposal or issue are provided on the next page.

Thank you for consulting with this Council and allowing additional time to fit with our Committee schedule.

Kind regards,

Ben Coakley
Strategic Environment & Licensing Manager
Chiltern District Council.

CHILTERN DISTRICT COUNCIL RESPONSE TO CONSULTATION
RATIFIED AT LICENSING & REGULATION COMMITTEE ON THE 19
OCTOBER 2012

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. (Page 160)

The primary purpose of licensing vehicles and drivers is one of public safety. The major problem with the current two tier system is that the general public do not necessarily know (or care about) the differences between taxis and private hire vehicles, they simply want to be transported conveniently, safely and at a reasonable cost to their destination. Maintaining a two tier system of licensing does nothing to make the law clearer for the public. The fact that taxis are already able to act legitimately as private hire paves the way for a single tier system. The Councils are in favour of a move to a single tier system of licensing on the basis that this would help improve public safety.

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. (Page 162)

The Councils are in favour of London being included in a single tier system. There are no obvious reasons why regulation in London should be different from surrounding authorities.

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. (Page 164)

This would seem a sensible approach, although it would also seem sensible to exempt very low risk activities e.g. wedding and funeral transport. Alternatively a lower level of requirements with a nominal fee may be used.

Question 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? (Page 164)

There are various types of vehicles currently licensed by authorities around the country that are not motor vehicles such as horse drawn carriages and pedal driven rickshaws. It's important that whatever transport is used the public are able to travel in it safely, so some form of regulation of vehicles not requiring a driving licence would still be necessary.

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. (Page 165)

The system of licensing would be clearer and more transparent if all vehicles with eight or fewer passenger seats fell within the taxi/private hire licensing regime and those with more than eight passenger seats were licensed by the Traffic Commission. The current system whereby Traffic Commissioners licence vehicles that could also be licensed by the local authority is confusing for the public.

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. (Page 166)

Agree, as stated at provision proposal 5, all vehicles with 8 or fewer seats should be subject to the same regulatory system.

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. (Page 167)

Agree, consistency is vital in any effective regulatory system.

Provisional proposal 8

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. (Page 168)

There is clearly a need for some form of system/arrangement so as to ensure genuine volunteers are not discouraged from legitimate activities. However, there is also a need to ensure that those people who are being transported by volunteers are able to have confidence that they are travelling safely. If the phrase “in the course of a business of carrying passengers” is used “volunteers” are entirely excluded from any form of regulation, which may not be in the best interest of the passenger. Consideration may need to be given to the frequency/hours/distances that are involved where volunteers are concerned. Similarly, the frequency/hours/distance of transport ancillary to overall service should be given consideration.

Question 9

How, if at all, should the regulation of taxis and private hire deal with:

- (a) carpooling; and
- (b) members clubs? (Page 170)

It is not felt that the regulation of taxis and private hire should extend to deal with carpooling and the like, unless such a scheme is run on a commercial basis and there is an element of hire and reward.

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. (Page 171)

Any regulatory system benefits from some degree of flexibility. However, such changes to the regulatory system by Secretary of State/Welsh Ministers should be subject to prior consultation. It would be extremely undesirable for such flexibility to result in different regulatory regimes in Wales and England.

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. (Page 172)

In general the use of vehicles to transport members of the public in connection with weddings and funerals appear to be low risk and therefore it is questionable whether they should be caught within the licensing regime despite the fact that the vehicles are used within the course of a trade or business. However, some clarification about the extent of use, particularly for weddings would be useful, for example, transporting the bridal party to the airport after the wedding reception may be considered to be sufficiently closely associated with the wedding to be exempt from licensing, but would transporting the bride and guests around the previous week for the hen party constitute use in connection with a wedding?

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse? (Page 174)

The contract exemption was repealed as a result of individuals using it to circumvent licensing requirements. There appears to be no good argument for reintroduction.

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to “streets”. (page 175)

Agree, any area where the public have access should be covered. Indeed, Chiltern DC has had some recent enforcement cases that would clearly have benefited from a clearer definition of this.

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? (Page 177)

It is not thought appropriate to change existing arrangements at airports. There are already facilities for passengers who have pre-booked with other providers to access those providers, albeit this may be through short term car parking facilities.

Provisional proposal 15

The defining feature of taxis, the concept of “plying for hire” should be placed on a statutory footing and include;

- (a) references to ranking and hailing;
- (b) a non-exhaustive list of factors indicating plying for hire; and
- (c) appropriate accommodation of the legitimate activities of private hire vehicles. (Page 181)

The current law of plying for hire lacks clarity, so if a two tier system is to be retained then clarity is required. If a single tier system was implemented, which this authority is in favour of, there would be necessity for clarity as all vehicles would be able to ply for hire.

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. If a single tier system were adopted there would be no need for the distinction to be maintained.

If a single tier system were adopted there would be no need for the distinction to be maintained.

Question 17

Would there be advantages to adopting the Scottish approach to defining taxi in respect of “arrangements made in a public place” instead of “plying for hire”?

It seems the difficulties associated with the definition of public place are as complex and lacking similar clarity to the current definition of plying for hire. Again, if a single tier system were adopted then this question would not arise.

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained. (Page 182)

It would seem sensible to retain the concept of compellability for hiring from ranks as to do otherwise would result in drivers refusing short journeys and potentially refusing to transport people with disabilities or those accompanied by assistance dogs, albeit on other grounds. Drivers know that if hired from a rank, provided the journey is within the district they are obliged to transport the customer. The situation is currently clear and to change it would seem like a backwards step.

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicles and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. (Page 183)

If two tier licensing is to be maintained then this would be appropriate.

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however, be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.

Although this approach could potentially create additional enforcement difficulties it appears that the risks associated with this deregulatory proposal are relatively low and therefore could be permitted, provided the burden of proof to demonstrate that the vehicle was not being used for private hire/taxi services should lie with the driver.

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements. (page 185)

Statutory guidance, provided well drafted and the subject of consultation prior to it being issued can be of benefit. However, guidance must be the same for England and Wales.

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned. (Page 185)

If the two tier system is to be retained, we would strongly agree.

Question 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion? (Page 186)

If the two tier system is to be retained it is important that there is clarity for the public about the tiers, therefore terminology should not be interchangeable.

CHAPTER 15 – A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements. (Page 188)

National safety standards would be appropriate in order to ensure consistency. However, these should be appropriately high standards, rather than a bare minimum. Any standards imposed should be the subject of consultation prior to implementation.

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards. (Page 189)

National safety standards should be set at a sufficiently high level such that local authorities do not feel the need to set safety standards over and above national standards. These should be appropriately high standards, rather than a bare minimum. Any standards imposed should be the subject of consultation prior to implementation.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. (Page 189)

National safety standards should be set at a sufficiently high level such that local authorities do not feel the need to set safety standards over and above national standards. These should be appropriately high standards, rather than a bare minimum. Any standards imposed should be the subject of consultation prior to implementation.

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers. (Page 190)

Consideration should be given to matters such as English language testing so as to ensure the driver can communicate effectively with customers. Competent driving skills, such as the Driving Standards Agency test should also be considered.

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? (Page 190)

National standards set at a sufficiently high level would obviate the need for local vehicle signage. A national standard would help to assist with public understanding. However, if national standards are not to be set at a high level then local setting should be retained.

In Chiltern for example, local standards are in place for private hire door stickers that reflect the joint working with the Council and Thames Valley Police.

Question 29

What practical obstacles might there be to setting common national safety standards for both taxi and private hire vehicles? (Page 191)

If a single tier system were to be put in place and sufficiently high safety standards set that applied to all vehicles the process should be reasonably straight forward.

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (Page 192)

No, driver safety standards should be consistent across the taxi and private hire industry.

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should only cover conditions relating to safety. (Page 192)

The basis for safety and other standards should arise from the appropriate regulatory framework, rather than purely be delegated to the Secretary of State and Ministers.

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. (Page 193)

Agree

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? (Page 193)

A technical advisory panel would be a good approach.

Provisional proposal 34

Licensing Authorities should retain the power to set standards locally for taxis provided above the minimum national standards. (Page 193)

If they were to have a single tier national approach then it should be just that, a national system providing clarity for the public throughout the country.

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? (Page 194)

See response to 34 above

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? (Page 194)

See response to 34 above. However, the ability to add conditions to driver and operator licences on a specific case by case basis has been very useful in order to deal with specific issues/concerns.

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? (Page 195)

We believe that this is best left to local arrangements, although a statutory duty may help with the move to wider national standards and arrangements where liaison outside of the region may be required.

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. (Page 196)

Strongly agree.

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. (Page 196)

If a single tier system was implemented this would be irrelevant. However if a two tier system is to be retained there are merits to zoning.

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences, which may only be used as certain time of day as prescribed by the licensing authority? (Page 197)

For some authorities this would certainly be useful. However, in reality this has very similar effects to retaining limits on vehicle numbers, so it seems strange to introduce this if other councils (we have no limits) abilities to limit numbers is to be removed.

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. (Page 198)

There are clearly commercial justifications and advantages for allowing taxis/private hire operators to operate nationally rather than primarily in the area where they are licensed. However, in doing so, it is important to ensure that public safety is not compromised. If operators were to be permitted to use drivers and vehicles licensed by any authority then a national register of licences would be essential.

Provisional proposal 42

They do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs. (Page 199)

If they are truly moving to a national system there would seem no justification for a return to area requirement.

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares. (Page 200)

This should remain a local issue as it is strongly related to the local area, economy and wider community issues.

Setting maximum fares for either taxis or private hire would protect the public from being overcharged. Whenever fares are set they are maximum fares, so drivers/operators are free to charge lower rates than the set fares. If a single tier system was adopted hailing or rank hirings could work on a meter, whereas pre-bookings could be subject to separate fares.

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (page 200)

As 43 above, pre agreed fares for pre agreed journeys should be allowed outside of the metered rate. This is already the case for hackney carriage journeys ending outside of the district. In reality the pre-agreed fares tend to be lower than the metered fares rather than higher.

CHAPTER 16 – REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING

Question 45

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 203)

Set out in primary legislation in the first instance with detail provided by Ministers. Wales and England should have the same standards.

Provisional proposal 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. (page 204)

Disagree. Vehicle owners are able to exert not insignificant influence over drivers and it is therefore important that they are vetted and their criminal convictions scrutinised. It is not unusual for people who would not be considered to be fit and proper to hold driver or operator licences to own a number of vehicles and put someone forward to hold an operators licence on their behalf.

Question 47

Should national vehicle safety standards be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions? (Page 205)

Set out in primary legislation in the first instance with detail provided by Ministers to allow for a continual improvement with time. Wales and England should have the same standards.

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. (Page 207)

Agree.

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? (Page 208)

Persons operating hackney carriages out to be required to meet the same standards and requirements as those operating private hire. A single tier system would deal with these anomalies.

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. (Page 209)

If the intermediary is dealing only with licensed operators then no licence should be necessary, but where bookings are passed direct to drivers an operator licence must be required.

Question 51

Should "fit and proper" criteria in respect of operators be retained? (Page 210)

Yes. To some extent the fit and proper criteria for operators is more important than for drivers. Operators are able to exert a significant amount of influence over drivers and they should be in a position to set an example to drivers.

Provisional proposal 52

Operators should be expressly permitted to sub-contract services. (page 210)

If a national scheme is to operate successfully then this must be permitted.

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply?

Yes, the requirements should be the same as for private hire. Again, a single tier system would deal with this.

CHAPTER 17 – REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers. (Page 213)

Agreed. Chiltern does not have an existing restriction so this is not relevant to us; however regard must be had to the views of those authorities who feel the need to retain limits on numbers and the often good reasons for these limits being retained.

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? (Page 213)

Chiltern does not have an existing restriction so this is not directly relevant to this Council; however the views of those authorities that retain a historical restriction must be sought and taken into account. What works for one authority doesn't necessarily work for another.

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed? (Page 215)

Yes.

CHAPTER 18 – TAXI AND PRIVATE HIRE REFORM AND EQUALITY

Question 57

Should there be a separate licence category for wheelchair accessible vehicles? This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. (page 217)

There should be some recognition of the existence of wheelchair accessible vehicles and the higher costs that vehicle proprietors often incur as a result of provision of these vehicles. Highways authorities should make provision for wheelchair accessible vehicles at ranks. It is difficult to see how a driver would be able to give priority to disabled passengers?

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? (Page 217)

There could be some recognition of the existence of wheelchair accessible vehicles and the higher costs that vehicle proprietors often incur as a result of provision of these vehicles. Lower licence fees is one incentive, but taking account of the higher costs of these vehicles incentives need to be more than simply lower licence fees. Some incentive from central government should be put in place, e.g. exemption or reduction in road tax.

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? (Page 217)

Other financial incentives e.g. assisted purchase.

Provisional proposal 60

They do not propose to introduce national quotas of wheelchair accessible vehicles. (page 218)

Even if national quotas were introduced it is difficult to see how they could be effectively put in to place. Questions 58 and 59 would require resolution first.

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. (Page 219)

Strongly agree.

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complaint to the licensing authority. (page 219)

Strongly agree.

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? (page 220)

An obligation to stop could be useful. However, those drivers who don't currently stop for disabled people are likely to continue to do so and simply deny seeing the person. Education and training may assist with this problem.

CHAPTER 19 – REFORMING ENFORCEMENT

Question 64

Should authorised licensing officers have the power to stop licensed vehicles? (page 222)

This power may be helpful, but in practice it is difficult to see how it might work as licensing officers generally aren't uniformed (but may wear higher visibility clothing) and recognisable in the same way that police officers are.

Question 65

What more could be done to address touting? Touting refer to the offence "in a public place, to solicit persons to hire vehicles to carry them as passengers". (page 223)

Touting is not currently a significant problem in either Chiltern or South Bucks Council areas; however the definition of 'public place' may benefit in being widened to include some private land that may actually constitute a public place in all but name.

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? (Page 223)

In circumstances where there are serious public safety issues it may be desirable to have powers to impound vehicles. However, legislation should be clear about when this power is used.

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how? (Page 225)

Fixed penalty notices for taxi and private hire offences would be very useful. Prosecutions of drivers is an extremely time consuming and costly means of enforcement for matters that magistrates often view as minor matters.

Provisional proposal 68

Enforcement officers should have the power to enforce against vehicles, drivers and operators licensed in other licensing areas. (Page 225)

Agree, a national scheme requires national enforcement powers.

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? (Page 226)

Agree, again a national scheme requires national enforcement powers. Generally local authorities already work well together across borders; however, what is vital is that each authority receives sufficient funding from licence fees for it to carry out an appropriate level of enforcement. To ensure full consideration of the facts and taking each case on its own merits, powers should require consultation with the host authority in the case of serious enforcement such as revocation.

CHAPTER 20 – REFORM OF HEARINGS AND APPEALS

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. (Page 230)

Agree.

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. (Page 231)

There may be some merit in this approach if the first stage of decision making is undertaken by officers under delegated authority. However, where decisions are made by a Licensing Committee, the Councils are not in favour of reconsidering decisions as a first stage of appeal. In the event of an appeal

being submitted the decision and the grounds of appeal are considered at an early stage of the appeal process in any event.

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court. (Page 232)

If a national system is to be put in place a licensing tribunal with legally qualified chair and properly trained members would seem appropriate.

Question 73

Should there be an onward right of appeal to the Crown Court? (Page 233)

Agree. Experience of some authorities has shown that magistrates' decisions, in a minority of cases, do not always have public safety as their focus. In addition, some magistrates' court deal with matters quite differently to others, therefore some onward right of appeal in essential.

From: Jane Bennett [REDACTED]
Sent: 10 September 2012 17:47
To: TPH
Subject: Re the proposal to change the licensing for Wedding and Funeral car operators
[REDACTED]



Dear Sirs

Re: The change the licensing for Wedding and Funeral car operatives

As a funeral director and supplier of wedding limousines I am most perturbed by the proposals to change the private hire regulations for funeral and wedding vehicle operators for the following reasons:-

1. Some funeral directors are very small businesses, with maybe just 50 funerals or less per year, the costs would be prohibitive for these type of businesses, it may even force them to close, in small rural areas this would prove a great loss for bereaved families.
2. A funeral is not dependent on a set charges, the fee for the limousine or hearse provides part of that service fee and is not dependent upon the distance covered or the time of day.
3. The maximum number of seats in a limousine is seven, plus the driver although the majority of the time the seventh seat will be occupied by the funeral conductor or minister.
4. Each funeral is unique therefore no repeat business, funerals are arranged in advance, they are not booked over a mobile at the last minute.
5. The vehicles are built for purpose, they are very costly as new.
6. The only advertising may be the name of the funeral directors, frequently though we try to keep a low key, we are there to provide a service to families.
7. Most companies use their vehicles solely for funerals.
8. As a company we will only employ drivers of limousines who are over 25 years of age.
9. In a funeral cortege our vehicles would never speed, most would not even reach the speed limit.
10. Our elegant vehicles would look unsightly with license plates on the back, if we had to have these like cabs.
11. Our funeral vehicles cover very few miles annually – usually around 5000 for the limousines and 6000 for the hearses, our classic and vintage wedding vehicles may not even cover 500 miles. Therefore please take into account the additional costs and inconvenience for additional tests, and bear in mind that for our wedding cars they may not have even been used in between the tests.

12. Some of our Rolls Royce limousines have occasional seats in the back, they cannot have seatbelts fitted. To replace our fleet of limousines would crucify us as a business.
13. Many funeral directors rely on casual staff to drive their vehicles, often just once or twice a month, who would bear the cost of the medicals and CRB checks? We are never alone with children or vulnerable adults.
14. Any increases in costs would have to be passed on to our clients, in today's climate many are already struggling to pay for a funeral account anyway, bearing in mind that you never know when someone is going to pass away.

Your comments would be appreciated please.

Kind regards

Jane Bennett Dip FD, LMBIFD
Managing Director
Bennetts Funeral Directors



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Aylesbury Taxi Association

Law Commission

Reforming the law of taxi and private hire services

The taxi trade in Aylesbury have some concerns with regards to the provisional proposals set out by the Law Commission. For a number of years we have worked very closely with the local authority to make sure the public receive the best possible service. We feel that the high standards that we have achieved will be lost and public safety will be put at risk.

Factors the trade oppose:

Quantity restrictions

Any increase in the number of taxis would have a devastating effect on the trade and would not be in the interest of the travelling public. It would mean the drivers would have to work longer hours to make a decent living and cut corners on maintenance. This will affect public safety.

It may also lead to an increase in fares as there will be a definite rise in the time a driver has to wait for a customer.

Having limits on the number of hackney carriage vehicles in Aylesbury has been very beneficial to the travelling public. Since 2010 all taxis have changed to purpose built taxis like the London cab or the new E7 this was mainly done to accommodate the wheelchair passengers and also to provide a safer means of transport for the passenger and driver. It also meant that the public could distinguish the difference between a hackney carriage and private hire. This required a large investment from the proprietors often meaning they had to take out loans or remortgage their properties.

Many drivers have also received training and gained a level 2 NVQ qualification. This would not have been possible had there been no restrictions on numbers.

As there are only a limited number of rank spaces in our town, even a small increase in the number of taxis would cause a great problem with congestion. The local authorities currently have no plans for further provisions for taxi ranks and are restricted for space in the town centre.

Although removing limits would be beneficial to the travelling public in large cities in our view the certain factors like the size of the population of a town, other modes of public transport like buses and the size of the private hire fleet should also be taken into consideration. Therefore it would be better to leave such decisions to the local council who would know what is best for their public.

In the past few years the taxi trade in our town has suffered greatly with a significant drop in revenue. This is due to a lower number of public coming into our town centre requiring taxis and higher running costs, such as fuel and insurances. As it stands it is not unusual for a driver to wait for 45min to an hour for a fare which means they are already spending more hours per day on the road in order to make a living. Adding more taxis would definitely increase this problem and would be putting the public at risk. It will also decrease the quality of service currently being received.

Zones

The taxi zones are there to make sure the public receives the service in their particular area. By amalgamating zones would mean that drivers would tend to trade in areas that they believe would be more lucrative leaving voids in other areas. This is another reason for keeping limits. It is a sure way of maintaining a service in all zones whilst continuing to keep a high standard.

Cross border issues

We in the trade feel that taxis or private hire vehicles should principally work in the district they are licensed by. This would mean the livelihood of the drivers to some extent is protected and the standards of that district are maintained. Also the revenue the councils receive is protected.

Wheelchair accessible vehicles

All taxis licensed by our district council are wheelchair accessible, this has been very welcomed by the local authority and the customers that use them for that purpose. This said the cost of purchasing such a vehicle and the running costs involved are very high. A national lower licensing fee would help the proprietors meet the costs.

Some ranks are not suitable for allowing wheelchairs in and out of taxis this needs to be looked at by the local authorities and provisions put in place. Also not all wheelchairs are crash tested and the driver should have the right to refuse a passenger on these grounds.

Enforcements

The council at times seem powerless to deal with offenders. This problem is especially highlighted when a driver is caught illegally plying for hire. Although he or she may have their license suspended or revoked they tend to go straight forward for an appeal. This means they are returned their license until a court hearing takes place which could take months. After which the court may only give them a small fine. For this reason we feel the council or the Licensing Committee should be given more powers to deal with offenders perhaps with fines as well as being able to suspend or revoke ones license. The punishment needs to be a deterrent in order to be affective.

Illegal plying for hire

This has become a major problem in our town as is with other towns and cities. It is unlawful and unfair to the taxi drivers that are making an honest living. Although the council have tried on many occasions to deal with the problem it seems to have got worse. With more private hire vehicles on the roads the problem is just not in the evenings/weekends or outside nightclubs it is happening during the day right next to the taxi ranks. The only sure way of tackling the problem is though 'test purchasing' whereby the driver cannot deny the offence taking place. Along with the recommendation of 'more powers' given to the council we feel this problem can be dealt with most affectively. The punishment needs to be a deterrent.

Sometimes the operators themselves instruct the drivers to 'tout' for work. They too should be held liable for their drivers actions.

If this illegal activity is allowed to carry on then it is only a matter of time where a passenger is seriously injured or killed in a collision and cannot claim from the drivers insurance as it would be deemed invalid at that time.

Wording 'Taxi' or 'Cab' on private hire vehicles

The trade strongly feel that the words 'taxi' or 'cab' should not be displayed anywhere on a private hire vehicle. This is misleading to the public as they may believe it is a taxi they getting into. This also encourages illegal plying for hire. Most vulnerable would be people not local to an area or those that have consumed too much alcohol.

Taxi fares

Taximeter fares should continue to be set by the local council through consultation with the trade. Taxis should also be allowed to charge a fare that is higher than the meter fare for pre booked journeys only. As some pre booked trips may include a lot of dead mileage this would only be to cover the cost of fuel and time spent on a journey. However the price given would usually be in line with what a private hire firm would charge.

There has been some concern recently about how much private hire firms charge. As there has been an increase in the past few years of the number of operators licenses granted and private hire vehicles on the road competition is very high. It has been noted that some firms are charging very little or are setting a single price to anywhere in town regardless of mileage. It is hard to believe that they are making any profit at all. It is near impossible to even maintain a vehicle at these prices. This type of business practice only encourages illegal activities such as touting and could mean vehicles are of a very low standard and sometimes not even roadworthy. This matter should be investigated further as the operators seem to be taking advantage of drivers, some of whom are not well educated or have recently arrived to this country.

LAW COMMISSION

Reforming the law of taxi and private hire services.

Response from Licensing Officers from Reading Borough Council.

2 August 2012

Single tier vs double tier

- Enforcement - practical difficulties and who will pay
- Removal of local authority choice
- Nationalising the systems for vehicles, drivers and operators
- Need for standards to be same for both HC and PH
- Could we have a 'Taxi' MOT?
- How would operators know if a driver licensed in another area had their licence revoked?
- Where are the enhancements to public safety?
- Need for drivers to be tested on law and highway code as a minimum

SUMMARY

The Department for Transport, Taxi & Private hire Vehicle Licensing, Best Practice Guidance, March 2010, states “**The role of local authority licensing of the taxi and private hire vehicle trades is to protect the public**”

This authority does not believe the proposals put forward will result in any improvements to public safety but are concerned that the proposals will result in a decrease in public safety. The proposals as set out will not lead to legislation for the hackney and private hire trade that is fit for the 21st Century.

On a more positive note there is much to commend national standards.

Concern

1. It appears that the proposals are from an agenda set by the trade rather than public safety. The proposals should be driven by public safety. As a local authority, with the statutory duty to assess and issue licence applications and enforcement of legislation, we are of the view that the feedback of local authorities, should carry more weight than that of the trade as the trade is driven by financial gain to itself and not public safety.
2. This consultation, by the proposals within it, has lost the opportunity to rid the trade of an outdated 2 tier system. The public do not understand the two tier system and this is the biggest single barrier to public safety.
3. The consultation by its title suggests reform, yet the proposals are not reform but more tampering of the current system.
4. National minimum safety standards referred to in the proposals will result in a downward slide of standards to the minimum.
5. If national standards are to prevail along with the abolishment of the 3 licence rule for private hire, there is a requirement for proposals on

- what will determine which local authority an applicant applies to and which local authority will be responsible for the associated enforcement.
6. These proposals should not be progressed in isolation from enforcement. Legislation is meaningless if it is not practicably enforceable.
 7. There is no ability in this consultation to feed in alternative proposals.

Support

1. The biggest change in the proposals is to set national standards. This authority is not against national standards per se and believe there is much to recommend such.
2. This local authority welcomes deregulation on hackney carriage vehicle numbers.

OUTLINE OF KEY PROPOSED CHANGES

1.9 The main changes that might follow from our provisional proposals include:

(1) National minimum safety standards for both taxis and private hire vehicles.

Agreed

(2) Changes to standard-setting: additional local standards, above the national standards, would continue to apply to taxis (for example, topographical knowledge and vehicle requirements). However, for private hire vehicles, only the national standards would apply and there would be no scope for additional local standards. However we ask about possible exceptions where local private hire standards may be retained, for example, in respect of signage.

Proposals for taxis agreed but if Private Hire Vehicles (PHV's) to be a national standard, it all depends on the standard and really this needs to be seen before one can properly comment. Will it cover scope of vehicles to be licensed, age of vehicle, condition of vehicle both in terms of physical appearance and road worthiness? How often will vehicles be tested?

Some authorities allow their own PHVs in bus lanes for example and need to know where a taxi is licensed to enforce this.

(3) It would be easier for private hire services to operate on a national basis.

We suggest private hire operators would no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by the same licensing authority. Subcontracting would be allowed, as is already the case in London.

Private Hire Operators (PHO) can already invite and accept booking from outside the locality as long as the PHV & PHD are licensed by same LA as the PHO.

With HCVs you have to get and will continue to get a licence from where you want to ply for hire but, if a PHO can pass jobs on to other licensed PHV/PHDs or PHOs then what determines where anything goes to get a licence? What will stop the cheapest LA getting all the applications and money and the knock on effect to enforcement and how this is funded becomes very significant.

At the moment a PHV must be tested in the LA area where it is licensed. Will this continue?

Will a PHD have to have a licence from the same LA as the vehicle he/she is driving?

Could there be a situation where a passenger has booked with PHO from LA1 and gets a PHV from LA2 and PHD from LA3?

(4) London would be regulated under the same flexible framework as the rest of England and Wales.

This would appear to make sense. Also the other anomalies such as Plymouth should be brought into the same regime.

(5) Licensing authorities could no longer limit the number of taxi licences.

If this proposal comes into being, the transition arrangements between a limited situation and unlimited would have to be carefully considered and guidance would be helpful. Market forces would determine the number of HCV and HCDs, however it will be very unpopular with the taxi trade in Reading where a HCV worth about £10,000 can sell for about £60,000 with an RBC plate on it.

(6) More enforcement powers for licensing officers against out-of-borough vehicles and drivers.

This proposal is welcomed. EOs need the same enforcement powers for other LA vehicles and drivers as they have for their own, including being able to suspend or revoke their licences. However it still limits the enforcement action they can take as an EO's LA has no power over the conditions imposed by another LA.

(7) Disability awareness training for drivers.

This proposal is welcomed. Reading Borough council have this in a small part as some of the questions on the theory paper taken as part of the driver licence grant process, cover this, but the majority of drivers still seem woefully ignorant in this regard.

(8) Introduction of a statutory definition of "plying for hire" (but without changing it in substance).

The view on this would depend on the definition.

(9) Weddings and funeral cars would no longer be exempted through primary legislation.

No objection

(10) Allowing leisure use of taxis and private hire vehicles.

A licensed vehicle should not be treated as a personal run about but as a working trade vehicle. If it is licensed and has a plate on it then a member of the public will reasonably believe it is OK to go hire the vehicle. The public do not understand the difference between a HCV & PHV let alone having to also learn when it is a HCV/PHV and when it is in private use.

(11) Bringing more vehicles within the licensing system (including for example limousines, motorbikes and pedicabs) – but giving the Secretary of State and Welsh Ministers power to make exclusions, and to set separate standards, in respect of different categories of vehicle.

If having national standards, then it makes sense for those national standards to be set nationally for different categories of vehicle.

(12) Clearer exclusions for volunteers and other services where transport is not the main service provided, such as childminders.

This would be welcome. There are already some guidelines on this but clearer and more comprehensive regulations/guidelines would be beneficial.

(13) Powers for government to issue binding statutory guidance to create greater consistency in how taxi and private hire legislation is applied.

This is an oxymoron. If it is guidance it cannot be binding as well as then this makes it statutory law, not guidance. Perhaps an approved code of practice?

1.10 We also ask questions about the following:

(1) a new category of wheelchair accessible vehicles;

There needs to be provision to ensure every LA has enough licensed vehicles to meet the needs of disabled persons including those using a wheelchair.

(2) extending operator licensing to taxi radio circuits;

PHO can already operate HCVs and this does not affect the number of vehicles they can operate. If this proposal is suggesting that taxi radio circuits should be licensed then this authority would welcome such a proposal. If HCVs are operated by someone then this should require an operator licence and the same standards that apply to operated PHVs should apply and the HCVs should count towards the number of vehicles operated.

(3) possible use of the term “taxi” in respect of private hire services if used in phrases like “pre-booked taxi only”;

It is already proposed to keep the two tier system and therefore for reasons of public safety, the public must be able to differentiate between a HCV and PHV. Allowing the PHV trade to use the word taxi even if only in limited circumstances will just confuse what is a PHV and what is a HCV. Even with national standards as proposed, there will be the major issue that if a PHV plies for hire or HCV plies for hire outside its LA, it is not insured. If a PHV has words on it such “pre-booked taxi only”, the very use of the word taxi implies it can be hailed or picked up at a rank.

(4) reintroducing a (revised) contract exemption;

If it is hire and reward, it is hire and reward and the public should be protected either through hackney/private hire legislation or PSV legislation.

(5) improving the enforcement powers of licensing officers;

Additional powers for licensing officers welcomed. As well as being able to enforce against all licensed vehicles in their area they should have the power to stop vehicles. Also greater powers to suspend with immediate effect. At present this is really only possible for un-roadworthy vehicles. Needs to cover drivers as well such as the driver not being in a fit state. (e.g. drunk)

(6) a new “peak time” taxi licence that could only be used at particular times of day as decided by the licensing authority.

As it is already proposed to deregulate the hackney trade, this proposal is superfluous. There is no point of a “peak time” licence if you can get an anytime licence?

LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

OVERVIEW OF PROVISIONAL REFORM PROPOSALS

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept prebooked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. *(Page 160)*

The biggest issue to public safety is that the public does not know the difference between a hackney carriage and private hire vehicle. We have had decades with this system and if it isn't understood now, it never will be. The public just wants to be able to hire a vehicle and go, whether it be booked in advance, picked up at a rank or hailed in the street. All licensed vehicles should be able to do all of this. Plying for hire by private hire is a very serious safety issue that will remain for as long as the law distinguishes between hackney and private hire. This is the opportunity to get rid of the complicated and unnecessary two tier system and created a simplified and understandable single tier system. Other countries don't see a need for a two tier system and there is nothing significantly different in this country to require continuation with a two tier system.

REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. *(Page 162)*

Agreed. Everywhere should have the same system. People do travel between as well as within local authorities.

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. *(Page 164)*

Agreed.

Question 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? *(Page 164)*

No opinion

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. *(Page 165)*

This authority agrees there should be differentiation between private hire vehicles and public service vehicles. However the present limit of 8 passengers for private hire may be better if were raised to 16. There are many minibuses that are up top 16 seats that are basically running private hire services but escaping the legislation on private hire. This means those persons in such vehicles are not afforded the same levels of public safety. For example most of school transport operators use private hire vehicles and psv but for identical purposes yet the requirement to drive a 16 seater or less psv are no where needs as stringent as an 8 seater PHV. PSV are best to deal with proper coach and bus services but are wholly inadequate for private hire.

Rather than have a seat limit, maybe a definition of what constitutes PHV and PSV could be developed.

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. (Page 166)

Agreed

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. (Page 167)

Agreed

Provisional proposal 8

The concept of "in the course of a business of carrying passengers" should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. (Page 168)

Agreed

Question 9

How, if at all, should the regulation of taxis and private hire deal with:

(a) carpooling; and

There needs to be a legal definition of carpooling. It can then be determined whether something is carpooling and therefore outside of the scope of hackney carriage/private hire legislation.

(b) members clubs? (Page 170)

If the club exists for the purposes of carrying passengers for hire or reward then it should fall under the licensing regime.

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. (Page 171)

If the standards are national then it makes sense for exclusions to be national.

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. (Page 172)

This hasn't been an issue with this authority and the costs of licensing maybe excessive for a company (e.g. funeral directors) where the transport is only a part of the business rather than the business itself.

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse?

(Page 174)

This authority believes there is no merit to reintroduction of contract exemptions. It was a very abused exemption and such abuse is a public safety risk.

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to “streets”. *(Page 175)*

Agreed

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? *(Page 177)*

This authority does not believe there should be special provision with regard to the regulations at airports. The public at airports are often foreigners and tired and therefore vulnerable and should be afforded the same standards of public safety as if they were on a public street.

Provisional proposal 15

The defining feature of taxis, the concept of “plying for hire”, should be placed on a statutory footing and include:

- (a) references to ranking and hailing;
- (b) a non-exhaustive list of factors indicating plying for hire; and
- (c) appropriate accommodation of the legitimate activities of private hire vehicles. *(Page 181)*

Plying for hire is a very serious public safety issue in many large urban areas. Anything that can be done to detect and punish offenders should be put in place. It should be an absolute offence rather than a knowingly offence.

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. *(Page 181)*

Agreed

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”? *(Page 182)*

Agreed as long as public place includes private places to which the public have access.

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained. *(Page 182)*

Agreed

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. *(Page 183)*

Agreed

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.

(Page 184)

Disagree. This is a public safety issue. Human nature is not always what society would hope for. If it was there would be no need for any rules and regulations. This consultation should be driven by public safety when hiring vehicles with a driver. A non licensed driver, driving a licensed vehicle for leisure use could easily use it for hire and reward with no safety checks in place on that driver and hence put the public at unacceptable risk. If non professional use of taxis and PHV is to be allowed then the legislation must put the burden off proof on the driver to prove a vehicle was used for non professional rather than plying for hire. If it doesn't then any plying for hire will be virtually impossible for any prosecuting authority to prove, which would be a very serious retrograde step from the current position and to public safety.

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements.

(Page 185) No opinion

Provisional proposal 22

Reformed legislation should refer to "taxis" and "private hire vehicles" respectively. References to "hackney carriages" should be abandoned.

(Page 185)

If retaining a two tier system then differentiation in the term used must be kept.

Question 23

Should private hire vehicles be able to use terms such as "taxi" or "cab" in advertising provided they are only used in combination with terms like "prebooked" and did not otherwise lead to customer confusion? (Page 186)

No. It is already proposed to keep the two tier system and therefore for reasons of public safety, the public must be able to differentiate between a HCV and PHV. Allowing the PHV trade to use the word taxi even if only in limited circumstances will just confuse what is a PHV and what is a HCV. Even with national standards there is the major issue that if a PHV plies for hire or HCV plies for hire outside its LA, it is not insured. If a PHV has words on it such "pre-booked taxi only", the very use of the word taxi implies it can be hailed or picked up at a rank.

A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements. (Page 188)

Is this to apply to standard requirements for a vehicle or driver to be able to obtain a licence or is this national standard also applicable to conditions of the licence? It is acceptable to have standard requirements (though not just minimal) but not conditions to a licence as conditions include things more specific to the locality. The use of the term "Lowest common denominator" in referring to national standards implies however that the base line to these

standards may not be adequate enough to ensure public safety. Standards need to be set to weed out those who cut corners or seek out loop holes, not set at a level that relies on drivers/operators/et al, to be reasonable. Perhaps a standard should be set to include: customer service, dealing with difficult customers, vehicle safety and relevant legislation and this could be tested in a national qualification. Similar to that in place to get a personal licence under the 2003 Licensing Act.

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards. *(Page 189)*

See above Prov. Prop. 24 plus, this would mean areas of demand where drivers want a licence to ply for hire, will remain attractive even if the local authority has set standards above the minimum, but it does mean other areas even with only the minimum standard may struggle to meet demand, especially in an unregulated market.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. *(Page 189)*

The proposal is that these national standards be limited to addressing bottom-line safety standards. See comment to proposal 24. LA would not be able to impose additional standards on PHDs PHVs or PHOs. See Q36 for conditions.

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers. *(Page 190)*

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? *(Page 190)*

If standards are to be mandatory then it makes sense for signage to be too, as if jobs can be passed on to any licensed PHV/PHD then there needs to be some way for the public to know what a PHV looks like. Different signage regimes would be confusing.

Question 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? *(Page 191)*

The consultation proposes that authorities can add to the national safety standard for hackney carriages but not private hire and that with private hire the consultation assumes private hire operators will adopt higher standards. This is a very rash assumption as if this were the case there would be nothing to have stopped higher standards already being adopted by operators. The experience of this authority is that the majority of operators require regular and frequent enforcement checks to ensure compliance and if allowed to operator at a lesser standard they would. Added to this areas with a low density of population will have a low demand for private hire services and therefore little competition to incentivise operators to adopt higher standards.

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? *(Page 192)*

No. Regardless of whether a passenger is in a HCV or PHD they require the same minimum safety standard from the driver.

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety. *(Page 192)*

If standards are to be national with no alteration at a local level, then these standards need to include more than just safety. The argument given is that market forces will mean operators adopt higher standards for the vehicles and drivers they operate. If that is to be true tomorrow, it needs to be true now, but it isn't. Even with conditions relating to things other than safety, such as the presentation of the vehicle and driver, we struggle to keep things at a standard any fare paying passenger would reasonably expect. Competition does not drive everything and public transport, and hackney/private hire is a form of public transport, is ill suited to relying on market forces to ensure a good nationwide service. Metropolitans where there is extensive demand may, but there is no guarantee, result in competition driving up standards of some operators, but the rest of the country will end up with a second rate service.

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. *(Page 193)*

Agreed if the principle of national standards is approved.

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? *(Page 193)*

Depends who (in terms of knowledge and skill) is on the panel. Licensing Authorities should be statutory consultees.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. *(Page 193)*

Agreed if the principle of national standards is approved and suggest private hire as well as taxis are included.

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? *(Page 194)*

No. Local authorities need to be able to address local concerns and conditions.

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? *(Page 194)*

Yes and should also include vehicles, as the minimum national standards may not go far enough in addressing the issues in a particular local authority area. For example plying for hire in urban areas, especially in the early hours of the morning when the night time economy is ending is a big problem not

experienced by rural authorities. There needs to be standards/conditions to deal with the enforcement of this.

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? *(Page 195)*

If standards are national and any pre-booked job can be passed to any PHV/PHD regardless of where licensed then there needs to be a statutory requirement for LA to cooperate, otherwise one local authority undertaking no enforcement will become the authority where applicants go for licences leaving the other authority where the work is to fund and undertake all the enforcement.

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. *(Page 196)*

Would this be combining the area just for the standards setting or as a controlled district for plying for hire and ranking as well?

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. *(Page 196)*

Agreed.

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? *(Page 197)*

Can see no point in this, unless licensing authorities are to be allowed to continue to restrict numbers. However as it is already proposed to deregulate the hackney trade, it would make this proposal superfluous. The private hire trade has no restrictions on number of vehicles. There is no point of a "peak time" licence if you can get an anytime licence?

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. *(Page 198)*

PHOs can already invite and accept booking from outside the locality as long as the PHV & PHD are licensed by same LA as the PHO.

With HCVs you have to get and will continue to get a licence from where you want to ply for hire,

If a PHO can pass jobs on to any other licensed PHV/PHDs or PHOs then what determines where anything goes to get a licence? What will stop the cheapest LA or the LA doing no enforcement, from getting all the applications and fees and then leaving the costs of enforcement to where those vehicles/drivers actually work. How enforcement is to operate and be funded cannot be divorced from this process of reform.

At the moment a PHV must be tested in the LA area where it is licensed. Will this continue?

Will a PHD have to have a licence from the same LA as the vehicle he/she is driving?

Could there be a situation where a passenger has booked with PHO from LA1 and gets a PHV from LA2 and PHD from LA3?

Provisional proposal 42

We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs. *(Page 199)*

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares.

If taxis are to remain as separate from private hire and to use meters then what one taxi charges in the district needs to be the same as any other taxi as the customer doesn't have a choice about which taxi they get when at a rank or hailing a cab in the street. There needs therefore to be some body that sets these fares. It doesn't have to be the licensing authority.

The metered fare should be the maximum fare that can be charged for any journey. At present this is only the law for a journey wholly within the controlled district where the hackney can ply for hire.

Licensing authorities should not have the power to regulate private hire fares.

Agreed a customer can choose which private hire company they use and agree the fare prior to the journey.

(Page 200)

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? *(Page 200)*

No. There is no obligation for a hackney to agree to a pre-booked journey. If the metered fare would be considered inadequate then

REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING

Question 45

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions? *(Page 203)*

Appreciated that primary legislation enables prosecution as an enforcement tool, but the disadvantage of this method to setting standards is the difficulty in then amending such.

Provisional proposal 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. *(Page 204)*

Agreed

Question 47

Should national vehicle safety standards be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions? *(Page 205)*

Appreciated that primary legislation enables prosecution as an enforcement tool, but the disadvantage of this method to setting standards is the difficulty in then amending such.

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. *(Page 206)*

Agreed

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? *(Page 208)*

PHO can already operate HCVs and this does not affect the number of vehicles they can operate. If this is proposing that taxi radio circuits and taxis undertaking pre-booked work should be required to comply with the same licensing legislation as private hire vehicles doing this type of work, then agreed. If HCVs are operated by someone then this should require an operator licence and the same standards that apply to operated PHVs should apply and the HCVs should count towards the number of vehicles operated.

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. *(Page 209)*

Question 51

Should "fit and proper" criteria in respect of operators be retained? *(Page 209)*

Yes, whilst they may not be a driver they are operating drivers and have a position of influence. The public would be at risk if an operator were to encourage a driver to breach law/standards/regulations. To be fit and proper should also be extended to anyone involved in the taking, recording and despatching of bookings.

Provisional proposal 52

Operators should be expressly permitted to sub-contract services. *(Page 210)*

They can already do this but limited (outside London) to contracting to any other operator licensed by the same authority or any hackney carriage.

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? *(Page 210)*

If a hackney is to take a pre booking this should be under the same standards and with the same requirements for a pre booked PHV. The proposed national standards are limited to addressing bottom-line safety standards and these should apply to all alike. If not it makes a mockery of minimum standards. Seems inequitable having private hire standards if within in a deregulated numbers hackney regime you can therefore get a hackney plate rather than a private hire plate and both ply for hire and take bookings but not be subject to the same standards with regard to the booking as a PHV is.

REFORMING QUANTITY CONTROLS**Provisional proposal 54**

Licensing authorities should no longer have the power to restrict taxi numbers. *(Page 213)*

If this proposal comes into being, the transition arrangements between a limited situation and unlimited would have to be carefully considered and guidance would be helpful. Market forces would determine the number of HCV and HCDs, however it will be very unpopular with the taxi trade in Reading where a HCV worth about £10,000 can sell for about £60,000 with an RBC plate on it.

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? *(Page 213)*

If an area has a limit on numbers, then a market is created that places a value on both a plate and rental charges on a HCV. A plate in this authority can be valued at about £50,000 and rental income on shifting a cab for two shifts of up to £500pw. For proprietors of HCVs this is a lucrative business. To deregulate could lead to a temporary surge in licences issued with more HCVs than needed for the market until natural free market forces determined the number of licences needed. It would also result in a plate having no intrinsic value and the rental charges for a cab falling as more competition from more vehicles becomes available. Whilst these matters are not strictly licensing issues, they are particularly significant to someone who already has a loan on an asset (the HCV) and that loan ends up being far greater than the worth of the asset.

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed? *(Page 215)*

From a purely public safety licensing perspective this is not necessary. If looking beyond public safety then yes as the economic consequences on some HCV owners is significant. See above. A surge in HCV numbers could also cause tensions, resulting in a need for greater enforcement activity.

TAXI AND PRIVATE HIRE REFORM AND EQUALITY**Question 57**

Should there be a separate licence category for wheelchair accessible vehicles?

This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. *(Page 217)*

No. Wheelchair users need to be provided for but not by complicating what is licensed for whom and the duties of the driver being different. As a driver it should be a requirement to treat all passengers according to their individual needs. As a passenger regardless of your needs, you should have public transport available to you, which should include wheelchair accessible vehicles.

In terms of ranks, all ranks should be designed and in locations where a WAV can safely be loaded with a wheelchair bound passenger.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? *(Page 217)*

There needs to be something to ensure WAVs are available such as a requirement for a proportion of the HCV/PHV fleet or an incentive through fees. However vehicle fees are where enforcement costs are recovered, which needs to be borne in mind.

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? *(Page 217)*

As there is no proposal to introduce national quotas of wheelchair accessible vehicles and thus leaving it to be the responsibility of individual local authorities, it will result in some areas making adequate provision and other

completely negating the matter. This is at odds with the numerous proposals within in this document aimed at achieving national standards. A LA could make this a requirement for HCVs and the incentive would be the desire to ply for hire in that LA but as standards are mandatory for PHVs the only scope would be fees, which would mean the LA has to bear the cost implications.

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. *(Page 218)*

See response to Q59 above

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. *(Page 219)*

Agreed. Reading borough Council already has this in a small part, as some of the questions on our theory paper cover this, but the majority of our drivers are ignorant in this regard. However this proposal seems a bit toothless if there is to be no requirement for WAVs.

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. *(Page 219)*

This authority agrees with this proposal, but not just for the reason stated in P62. It is fundamental public safety requirement for the public to know the details of the licensed vehicle and licensed driver and where to contact with any concerns. The where to contact becomes especially relevant if abolishing the three licence rule for private hire as more and more vehicles and drivers will not be working in the authority where they are licensed.

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? *(Page 220)*

This concern could be rather irrelevant for any wheelchair bound person in an area where there are no WAVs to hail, there being no proposal for national quotas on WAVs.

There is already an obligation on hackney carriages to pick up when ranking and to stop, if safe to do so, when hailed if the for hire light is illuminated.

REFORMING ENFORCEMENT

Question 64

Should authorised licensing officers have the power to stop licensed vehicles? *(Page 222)*

Yes, but there could be safety implications.

Question 65

What more could be done to address touting? Touting refers to the offence "in a public place, to solicit persons to hire vehicles to carry them as passengers". *(Page 223)*

It would help if Magistrates were better educated and advised by the courts on the offence, its seriousness and gave sentences that were sufficiently grave to act as a deterrent. Currently it would appear that many drivers just regard going to court as an occupational hazard.

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? *(Page 223)*

Whilst this may be a good deterrent and an effective form of enforcement it may prove rather difficult in practice and impractical. If an authority impounds a vehicle that later turns out it should not have, there could be compensation considerations. Many local authorities will not have the storage facilities for vehicles or the budgets to cover the costs of impounding them. Greater powers for immediate suspension of vehicles and the power to remove plates without permission of the proprietor or requiring notice of the proprietor, would be preferable.

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how? *(Page 225)*

Fixed penalties for certain offences would have the benefit of instant punishment. However because of the instant nature there is no mechanism for an offender to appeal their punishment.

This authority already uses a penalty points scheme of enforcement for private hire drivers. Where decisions from the scheme have resulted in a suspension or revocation of a licence and the decision has been appealed to the courts, the authority has a very good record in defending its decision because of the systems in built appeal mechanism. Fixed penalties would not have this. Any scheme that ensures transparency and gives the opportunity for decisions to be reviewed to ensure fairness and consistency is both time consuming and costly to administer, but is viewed as fair.

Fixed penalties could also be a useful tool in raising revenue for enforcement.

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. *(Page 225)*

Agreed, especially if abolishing the three licence rule for private hire as more and more vehicles and drivers will not be working in the authority where they are licensed.

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? *(Page 226)*

If an offence is in a particular local authority, then that LA's officers should have the same powers regardless of where a vehicle or driver is licensed. This should include suspension and revocation of licences. This is achieved by the licence holder being accountable to any LA, not just the one where he/she is licensed. (At present enforcement of out of authority licensed vehicles/drivers/operators is limited to prosecution if an offence in law has been committed. Prosecution is time consuming, expensive and as punishments on conviction are minimal it is not much of a deterrent from reoffending.)

REFORM OF HEARINGS AND APPEALS**Provisional proposal 70**

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. *(Page 230)*

Is this not already the case now?

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. *(Page 231)*

This would be ultra vires as the decision of the LA is the decision of the Council, albeit maybe, via delegated powers to officers or committee. It is already the decision of the Council so the Council via a body of itself can not review the decision.

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court. *(Page 232)*

Yes. These decisions have serious implications for the applicant or licence holder and require to be heard by a body that carries suitable impartiality, gravitas and no link to the LA.

Question 73

Should there be an onward right of appeal to the Crown Court? *(Page 233)*

Yes. Magistrates are lay persons and there needs to be a right to appeal to a higher court to ensure no miscarriage of justice. If this doesn't happen case law could build up from wrong decisions and magnify that wrong decision. It is equally important that the respondent has a right to appeal a Magistrates decision as well as the appellant.

CONCLUSION

1.41 It is not possible in a summary of this length to introduce all of our provisional proposals. Consultees are therefore encouraged to refer to the full Consultation Paper available on our website. Please send responses by **10 September 2012**.

**Law Commission Consultation Paper No 204
Reforming the Law of Taxi & Private Hire Service
Response to the Consultation from the
GMB Manchester Central Branch**

Law Commission Consultation Paper No 204 Reforming the Law of Taxi & Private Hire Service
Response to the Consultation from the GMB Manchester Central

Provisional proposal 1: Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. (Page 160)

We agree the clear distinction between the different types of hire vehicle should remain to service the two different types of customer base. Attention should be given to ensure members of the public can clearly distinguish between the type of vehicle they are being offered and the regulations that apply.

We believe the definition and distinction between these two, (PH and Taxi) will form an important part of making enforcement easier. There are a growing number of cases and situations where there is serious and misleading confusion for passengers / customers. In some instances the attempt by some operators to “mislead” passengers regarding the nature of the vehicle they are entering (PH or Taxi) and how bookings should be made, places passengers at risk of travelling without insurance cover as the journey was not “pre booked”. There is growing evidence of passengers being picked up at the roadside by PH vehicles then booked in the vehicle.

The definition without clear rules on the type of markings vehicles can use and strict guidelines on the use of “Taxi” and “private Hire” are essential.

Provisional proposal 2: London should be included, with appropriate modifications, within the scope of reform. (Page 162)

London should be a separate entity having only just relatively recently accepted the licensing of private hire /minicabs and is unique in its construction. Any changes, if required should be part of an effective consultation with the trade in the area.

Provisional proposal 3: The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver.

Agreed. But what is the expression “Wide range of vehicles “meant to cover? What is the definition of “Imposing different standard in respect of widely different classes” This can lead to muddled legislation and contradicts the Law Commission’s own directive of “national standards”.

As a Union we are keen to ensure equality of access for all passengers and that all vehicles are suitable for purpose. Without seeing the new standards and proposal in detail it is difficult to give an accurate response. We would not be happy to move to a lowering of standards or regulations relating to the nature of vehicles without proper and full consultation with the trade and their representatives.

Question 4: Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? (Page 164)

It is presumed (although not defined in the reference) that Pedit cabs or such 'human' propelled forms of transport should not require a licence. This is a debatable point and not clearly defined and it could be implied that all forms of transport whether human propelled or motor propelled should be under a separate third tier.

The regulation of this sector and other forms of transport carrying passengers must protect the passengers and make clear the standards required of the service.

Provisional proposal 5; Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers.

Agreed. PSV's should not be confused with taxis and private-hire vehicles and the present definition of a licence required for a taxi or private-hire vehicles should be that of 8 seats or less.

Provisional proposal 6: References to stage coaches charging separate fares should no longer feature as an exclusion from the definition of taxis.

This seems to be misunderstood. It has previously been accepted that hackney carriage taxis can indeed pick up separate passengers en route, subject to the current passengers agreement where separate lower fares are then charged proportionately. In fact special taxi meters were designed and adopted for this purpose.

Provisional proposal 7: The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency.

Agreed. However, it should be noted that laws governing the licensing of limousines came into effect on October 1 2009 so if any changes were to be made then licensing authorities should be compelled to licence such vehicles by law.

Provisional proposal 8: The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service

Perhaps consultation with insurance companies may define what is “hire & reward” as such volunteer drivers are usually compensated for mileage / wear and tear which even cover the “wasted” mileage of going to the pick and returning home from the pickup. Additionally, what requirements are needed in regard to CRB checks for volunteer drivers when transporting vulnerable passengers?

There needs to be a clear definition of "volunteer" which should ensure people working for out of pockets costs do no work excessive hours and are engaged in genuine volunteer activity and service. Equally vehicles used for this type of activity should be fit for purpose.

**Question 9: How, if at all, should the regulation of taxis and private hire deal with:
(a) Carpooling; and
(b) Members clubs? (Page 170)**

Carpooling is an environmentally encouraged form of transport where the “passengers” would be pooling their resources and sharing the costs of the transportation in one way or another. Providing such carpooling does not result in profit making it is without consequence to the matters of private hire and hackney carriages and muddies the water unnecessarily.

Club Membership has previously been attempted in various guises with the USP of being for female passengers only. The normal procedure is that a monthly “club membership” is paid, rather than on a fare per journey basis. However, as there is profit involved then these “Club Memberships” must fall under private hire licensing. These “Club Memberships” were introduced to circumvent the burden that private hire operators have been required to adhere to; this requires further investigation and attention.

Provisional proposal 10: The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes.

Firstly, there is the argument of what would be ‘minimum’ standards before being able to answer the specific question. What would be the point of setting national standards if those national standards do not apply throughout every licensing authority ?

Further discussion and consultation is required.

Provisional proposal 11: Weddings and funerals should no longer be expressly excluded from private hire licensing through primary legislation.

The worrying aspect on this is that the “proposed” national private hire standards would be reduced to that of a funeral car. Such licensing should not apply to funeral or wedding cars providing that these vehicles adhere to such work. If wedding and funeral cars are deemed to require a licence then a third licensing tier should be introduced specifically to cater for such vehicles. It is daft to consider such vehicles especially those that are purpose built to carry the deceased as being in the same class as vehicles which can ply for hire!

Question 12: Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers’ exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse?

The repeal of the Act in 2008 was a positive step in removing the loopholes by those people who have been recognised by the LC as being “unscrupulous providers.” So to remove this step forward is simply taking a step backward and would only allow such ‘unscrupulous’ providers to operate again.

Provisional proposal 13: Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to “streets”.

Effective legislation should apply to all areas where the general public have access to, or may require, a taxi or Private Hire vehicle.

Question 14: Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank.

All contracts operating at Airports or other locations e.g. Private shopping Centres and their environs. These should adhere to the standards applied to Private Hire or Hackney Trade. The right of the public to choose their own service should be facilitated by equal and fair access to Terminals and the provision of Ranks for Taxis.

Provisional proposal Reference15: (Page 181) THE TWO TIERS - DEFINING TAXIS

Our union, the GMB, believes that a clear distinction is needed to ensure for reasons of safety that the general public are aware that Private Hire Vehicles are only pre bookable.

Plying for hire and technology

Provisional proposal 16: The concepts of hailing and ranking should not cover technological means of engaging taxi services.

Agreed in conjunction with answer 17 below:

Question 17: Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”?

Agreed, the Scottish definition in principle could be adopted with adjustment:

“A hire car (hackney carriage taxi) is one which is engaged, by arrangements made in a public place between the person to be conveyed in it (or a person acting on his behalf) and its driver for a journey beginning there and then by physical human indication of hailing or intervention.”

“A private hire car is one which is engaged via prior booking and not immediately hired without a recorded booking, and not hired in the street by means of physical human indication of hailing or intervention”

Provisional proposal 18: The concept of compellability, which applies exclusively to taxis, should be retained.

Agreed. Retaining compellability provides for ‘cherry picking’. However, there should also be maximum distance or length of time stipulated that compellability should apply. It would not be suitable for a driver to be compelled to undertake a long journey having already worked long hours.

Provisional proposal 19: Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked.

Agreed. However it should be considered that pre-book would have to be defined. At present a private-hire proprietor/driver can also hold an Operator’s Licence and thus confuse the actual limitations of a private-hire vehicle to not accept hailings or immediate approach. This means that it could be possible for such a proprietor/driver of a private-hire vehicle to be operating the vehicle in conjunction with the Operator’s Licence and thus take ‘pre-booked’ work which is actually hailed work or work gained by immediate approach in the streets.

Provisional proposal 20: Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved

Agreed. Restricting eligibility of only licensed drivers being allowed to drive a taxi or private hire vehicle is not required. There are many reasons to adopt the Metropolitan view including the use of such vehicles being driven by mechanics and such like. Around twenty-five years ago or so a hackney carriage could be road funded under a special “Hackney Carriage” category at a

reduced rate. This was removed and such hackney carriages were then road funded under standard “Private” use and rates.

Additionally, it is almost impossible to obtain insurance for public hire with social and domestic use.

Provisional proposal Reference 21: The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements.

Disagreed. However, if this is implemented it MUST be done in conjunction with full consultation with all the Union and Trade Reps. If this consultation is not permitted then this is strongly disagreed.

Provisional proposal 22: Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned

The term ‘Taxi’ should only apply to what we now call Hackney Carriages FULL STOP. The public need to be ‘educated’ as to the difference. Private Hire vehicles should be clearly different in name and livery. It is quite unbelievable that the Law Commission seems intent on causing complete confusion to the public!

The public need to be assured of the type of service they have engaged without confusion.

Question 23: Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion?

Strongly disagree. Any such changes to allow a private hire company to use the terminology will only confuse the customers and encourage illegal hirings. The word “taxi” is universally used in most languages and to consider applying this terminology to private hire vehicles is quite unacceptable.

Provisional proposal 24: Taxi and private hire services should each be subject to national safety requirements.

This question is muddled. The heading refers to “Minimum national safety standards for taxis” yet the proposal relates to taxi and private-hire services. Is the Law Commission confused? However, in regard to national safety standards this ‘standard’ needs to be defined before any definite answer can be given.

Provisional proposal 25: National safety standards, as applied to taxi services, should only be minimum standards.

Strongly disagree; Minimum National standards are unacceptable without the ability of local authorities to enhance these if they wish. Localism is a national policy of the Government and this suggestion opposes localism.

Local Authorities need the power to legislate above the standard to deal with specific issues and needs in their area.

Provisional proposal 26: National safety standards, as applied to private hire services, should be mandatory standards.

A full survey should be compiled to see how many authorities insist on some kind of topographical test. It does seem that the Law Commission is ignorant of how the general public actually orders a pre-booked vehicle. An order may only be initially made with an indication of an area that a customer is going to such as 'into town', and no specific end destination may be known when the booking takes place. Or indeed, the journey may consist of multiple pick-ups and drops which are not defined in the original booking. However, the 'professional' driver should have good knowledge of the area in which he/she is working otherwise this would be in detriment to the service of the customer.

Individual authorities should have the power to enforce a topographical or 'knowledge' test of all private-hire drivers if the authority deems it necessary. And this goes hand in hand on stopping cross border trade.

However, it is clear the Law Commission is determined to have a single national private hire standard with a saturated cross border regime. Therefore the principle of abolishing an authority's high standard of such a topographical/knowledge test entirely suits the Law Commission.

Provisional proposal 27: Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers.

Disagreed. This actually shows a lack of understanding of the trade in the UK and seems geared to the London Metropolitan standards for private hire vehicles (minicabs) which have only been licensed for a significantly small amount of time compared to private hire vehicles being licensed outside London since 1976!

If a private hire driver does not have a good knowledge of the area worked then when a customer decides to change the route then the service is delayed. Additionally, meters are indeed used in private hire vehicles. Although the rates cannot be governed by local council, it is understood that the only area that has a blanket ban on meters in private hire vehicles is London (minicabs). Additionally London does not require drivers of such private hire vehicles to have a licensing authority conducted topographical knowledge test.

It is a complete and utter backward step to introduce rules that will drop the requirement for a private hire driver if a local authority decides that this is best. However in rural areas it may well be a different story, so again highlights the need for local standards rather than a national one size fits all. This reflects the government's policy of Localism.

Perhaps the Law Commission visualises private hire drivers as sitting in an office and being passed a pre-booked job several hours before booked time which gives the driver plenty of time to prepare a route. This certainly is not the case.

The only advantage of not having a topographical knowledge test would be for the larger companies that have a monopoly in an area who have a high turnover of drivers.

It has been quoted in an online trade forum (<http://tinyurl.com/londonphquote>) that a London Private Hire Trade rep, Mr Mason stated:

"In the first 5 months of this year (2012) 55.8% of drivers whose licenses expired were renewed"

Which means that 44.2% of drivers, whose licenses run out this year, have decided to leave the trade for good.

Perhaps this is an indication of how the private hire trade (minicabs) in London is not regarded as a professional trade to be in as there is obviously no professional commitment to the trade because of the lack of any topographical knowledge test?

Question 28: Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable?

Agreed local standard setting for Private Hire Vehicles should be kept for vehicles signage.

Standards of driver knowledge and vehicle standards are all equally important with relation to the service delivery to consumers and all should be under the control of the local authority who are in the best position to judge their area's needs.

Question 29: What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles?

Our Union believe that Government may set national standards but cannot override the local authority's ability to enhance the standards of their licensed vehicles should they feel the national standard is unacceptable to the local area's needs.

Question 30: Should national conditions in respect of driver safety be different for taxi services compared with private hire services?

No, in this area it is paramount to ensure the drivers working in the two separate industries are protected.

Provisional proposal 31: The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should only cover conditions relating to safety

The Secretary of State and Welsh ministers should not have the power to change any legislation relating to Taxis and Private Hire Vehicles. Any changes to current and any future legislation should follow the current due process.

Provisional proposal 32: The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. Question 33: What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel?

It is paramount that any local authority should be able to set conditions over and above national standards providing they consult with all parties first.

Again this should be up to individual areas based on consultation and agreement from the local trades, stakeholders etc. If two or more areas decide to co-operate and pool their services then that should be allowed however this should be totally up to each authority. This fits in with the government policy of Localism

Provisional proposal 34: Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards.

Agreed but what happens with cross border hirings where a standard is set above the minimum national standards with additional expense of livery etc and private hire vehicles from other areas are allowed to operate to a different standard? Local authorities should control their vehicle standards that they believe to be correct.

Question 35: Should there be statutory limits to licensing authorities' ability to set local taxi standards?

Who is to decide what the limits are. Unless this can be defined then the question is pointless?

Question 36: Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators?

Agreed but what is the point if cross border hiring is permitted? One authority may impose a higher condition on its taxi and private hire drivers and operators than that of a neighbouring

authority. This would make it attractive for drivers to pay for licensing in an area which sets lower conditions if cross border hiring is allowed!!

Question 37: Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements?

The matter should be left to local arrangements.

Provisional proposal 38: Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting.

This is confusing?? If this is a step towards 'zoning' then no.

Provisional proposal 39: Licensing authorities should have the option to create, or remove, taxi zones within their area.

Strongly disagree. The dangers of zoning are that it creates 'Honey Pots' to the detriment of serving other areas. This again should be set by local authorities if all stakeholders agree.

Question 40: Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority?

This is the most ridiculous question posed! How can the Law Commission expect the professional driver to survive? A professional service is provided during the quiet times which are subsidised by the busier times. If the Law Commission brings in 'peak time licenses' it will then reduce the professional taxi trade to that of being part time. Additionally, how is this expected to be monitored without additional enforcement at extra cost? Absolutely no regulation should be enforced on any authority to adopt this.

Provisional proposal 41: Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority.

Private Hire Operators are currently perfectly able to accept any booking for any area and therefore the proposal is irrelevant and should not be considered.

Provisional proposal 42: We do not propose to introduce a "return to area" requirement in respect of out-of-area drop offs.

Our Union disagrees as the failure to do so will result in vehicles working anywhere and the enforcement provided by local authorities to ensure customer safety will be non-existent.

Provisional proposal 43: Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares.

Agreed

Question 44: Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (Page 200)

Agreed, providing there is an agreement between the taxi proprietor and the hirer.

Question 45: Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions?

The current rules relating to this issue are adequate which enables all licensing authorities to vet a driver as listed below.

A check on the right to work in the UK

A CRB check upon initial licensing and then on a regular three yearly basis.

A DVLA Driver Standards hands on test.

Provisional proposal 46: Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself.

Disagree. Vehicle owners should have as much responsibility to the public as the driver. There have been recent cases of taxi companies being used as money laundering and any vehicle owner deemed to be involved in criminal activity should be classed as “Not fit and proper”

Question 47: Should national vehicle safety standards be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 205)

The current laws relating to this issue are adequate which enables all licensing authorities to adopt the highest standards and therefore no change in this legislation is needed.

Provisional proposal 48: Operator licensing should be retained as mandatory in respect of private hire vehicles.

Agreed as the overall responsibility is with the operator in providing safe and suitable vehicles.

Question 49: Should operator licensing be extended to cover taxi radio circuits and if so on what basis?

In the interests of public safety operator licenses for taxi radio circuits should be introduced in line with private hire operator licenses.

Provisional proposal 50: The definition of operators should not be extended in order to include intermediaries. (Page 209)

Disagreed

Question 51: Should “fit and proper” criteria in respect of operators be retained? :

Strongly agreed.

Provisional proposal 52: Operators should be expressly permitted to sub-contract services.

Agreed as per the current regulations within England and Wales whereby operators can only hand work to operators within their own licensing authority to ensure customer safety.

Question 53: Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply?

Disagreed. When a hackney carriage driver is operating on a mixture of hail and ride/ranking/pre-booked system it is unacceptable to expect the driver to constantly be recording fares.

Provisional proposal 54: Licensing authorities should no longer have the power to restrict taxi numbers.

Our Union strongly disagrees with this free market ideology. The Taxi industry needs stability to enable it to provide a safe professional service. Unlike other services such as shops our industry is heavily controlled by Government with conditions imposed to ensure safety for the customer. The driver needs to work in an economic climate that allows the drivers to earn an income which allows for very high standards of maintenance and a working week that does not consist of 70 to 80 hours. Therefore to ensure customer safety local authorities must be allowed to restrict the number of taxi numbers in a controlled economy if they so choose.

Further considerations are the ecological problems that would follow a great shift from Private Hire to Hackney Carriage on the streets of England and Wales. In the City of Brighton & Hove the local authority is already facing heavy fines for its poor air quality, what impact would a further 100 or Hackney carriages have on the city centre taxi ranks?

This proposal does not agree with the government policy of localism. It also takes away a local authority's control of what they consider best, and imposes a central government one size fits all mentality on local councils.

The concept of more taxis means cheaper fares is a fallacy, it has been proven that local authorities that limit the number of taxis are more often cheaper in their fares than those that do not.

Some town centres already suffer from too many vehicles in the trade. Limitation is vital for quality of provision and for standards in the trade.

Question 55: What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers?

Our Union strongly disagrees with this free market ideology. The Taxi industry needs stability to enable it to provide a safe professional service. Unlike other services such as shops our industry is heavily controlled by Government with conditions imposed to ensure safety for the customer. The driver needs to work in an economic climate that allows the drivers to earn an income which allows for very high standards of maintenance and a working week that does not consist of 70 to 80 hours. Therefore to ensure customer safety local authorities must be allowed to restrict the number of taxi numbers in a controlled economy if they so choose.

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This proposal does not agree with the government policy of localism. It also takes away a local authorities control of what they consider best, and imposes a central government one size fits all mentality on local councils.

The concept of more taxis means cheaper fares is a fallacy, it has been proven that local authorities that limit the number of taxis are more often cheaper in their fares than those that do not.

Question 56: Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed?

Quantity restrictions should not be removed as per above questions.

Question 57: Should there be a separate licence category for wheelchair accessible vehicles?

This could involve:

(1) a duty on the licensee to give priority to disabled passengers; and

(2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles.

Disagreed

Question 58: Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? (Page 217)

Disagreed

Question 59: Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? (Page 217)

The government should encourage wheelchair accessible vehicles to be used as taxis by removing the VAT on such vehicles.

Provisional proposal 60: We do not propose to introduce national quotas of wheelchair accessible vehicles. (Page 218)

Strongly agreed

Provisional proposal 61: National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training.

Agreed but not at the expense of the driver.

Provisional proposal 62: In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. (Page 219)

This is where the Law Commission seems to lack understanding of the trade. In most cases such contact details are provided on the tariff card.

Question 63: What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? (Page 220)

No taxi should be 'obliged' to stop while the vehicle is in motion. However, compellability should be enforced at taxi ranks / train station ranks as per current disability bill contents.

Question 64: Should authorised licensing officers have the power to stop licensed vehicles?

Agreed

Question 65: What more could be done to address touting? Touting refers to the offence "in a public place, to solicit persons to hire vehicles to carry them as passengers".

Heavy fines and crushing of vehicles

Question 66: Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules?

Agreed

Question 67: Should licensing authorities make greater use of fixed penalty schemes and if so how? (Page 225)

This 'Penalty' system has already been deemed illegal in court:

PENALTY POINTS SCHEME RULED UNLAWFUL

25/05/2012

Cardiff City Council was challenged on the validity of its "penalty point scheme" in respect of taxi and private hire drivers. This policy was today in the High Court declared illegal as the terms of the current policy fettered the discretion of the Council by stating if a certain number of points were accrued then a licence "would" be suspended or revoked and not that it "could" be.

As this then left no discretion to the Licensing Panel it could not be held to be reasonable or proportionate.

Provisional proposal 68: Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas.

Agreed

Question 69: Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? (Page 226)

Cross-border hiring should not be permitted to ensure the safety of the travelling public.

Provisional proposal 70: The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence.

Agreed as is current policy of all councils.

Provisional proposal 71: The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision.

The current process in place is sufficient.

Provisional proposal 72: Appeals should continue to be heard in the magistrates' court. (Page 232)

Agreed.

Question 73: Should there be an onward right of appeal to the Crown Court? (Page 233)

Agreed.



Response to Law Commission Consultation

Reforming the Law of Taxi and Private Hire Services

Please note that we have only addressed those questions or proposals which we consider to have relevance to personal safety, which is the field of expertise of Suzy Lamplugh Trust.

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. (Page 160)

We agree with this, and stress that this distinction should be clear to passengers.

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. (Page 162)

We agree with this.

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. (Page 164)

We agree with this.

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? (Page 164)

From a personal safety perspective, because the scope for attack or abduction in pedicabs and horse-drawn carriages is small, we believe that it would make sense to restrict licensing to motor vehicles that require a driving license. However we do acknowledge that there may be road safety benefits to requiring pedicabs and horse-drawn carriages to be licensed.

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. (Page 165)

We agree with this, as long as the criteria for private hire versus public service vehicles are clear.

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. (Page 166)

We agree with this.

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. (Page 167)

We approve of measures which improve consistency of approach, and reduction of confusion for the passenger. Limousines and other vehicles with less than nine seats should be licensed in the same way as private hire vehicles.

Provisional proposal 8

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. (Page 168).

We agree with this. Drivers for voluntary services will be checked through the voluntary organization which will have access to (for example) CRB checks.

Question 9

How, if at all, should the regulation of taxis and private hire deal with:

(a) carpooling; and

(b) members clubs? (Page 170)

Members' clubs which offer services specifically to improve the personal safety and the perception of personal safety, by groups such as women or disabled travellers should still have the requirements for the drivers to be licensed. They provide services to the public, albeit one section of the public.

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. (Page 171)

We agree with this.

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. (Page 172)

We agree with this.

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse? (Page 174)

No, we do not think there would be merits in this.

Provisional proposal 15

The defining feature of taxis, the concept of "plying for hire", should be placed on a statutory footing and include:

(a) references to ranking and hailing;

(b) a non-exhaustive list of factors indicating plying for hire; and

(c) appropriate accommodation of the legitimate activities of private hire vehicles. (Page 181)

We agree with this. The difficulties with this lie in how well the concepts are understood by the general public.

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. (Page 181)

We agree with this.

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of "arrangements made in a public place" instead of "plying for hire"? (Page 182)

We do not think that there would be advantages to this because recent developments in technology, such as mobile phone apps, allow passengers to book a minicab/private hire vehicle, for a journey beginning there and then, even if it is parked in front of them – which would technically be a public place.

From a personal safety perspective, the critical message we would wish to convey is the importance of booking licensed minicabs/private hire vehicles in a way that ensures a record of

that booking is made, which we would expect a mobile phone app, or other internet booking system, to allow.

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained. (Page 182)

We strongly agree with this, and feel that the enforcement of this should be strengthened especially in relation to disabled passengers.

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. (Page 183)

We agree with this.

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved. (Page 184)

We assume therefore, that if a driver was found to have committed an offence in his/her private hire vehicle or taxi, even in leisure time, the penalties would be as strong as if s/he had committed the offence whilst working.

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements. (Page 185).

We agree with this. There need to be minimum standards and it is at this level that they can be consistently set.

Provisional proposal 22

Reformed legislation should refer to "taxis" and "private hire vehicles" respectively. References to "hackney carriages" should be abandoned. (Page 185)

We agree with this

Question 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion? (Page 186)

Use of words like “taxi” or “cab” in signage or advertising is bound to lead to customer confusion. Any Google search for taxis and private hire shows companies called “xx taxis” or “yy cabs” which it is not all clear if they are actually taxis or private hire vehicles. The term “minicabs” to signify private hire vehicles is less confusing and is a term in current usage. Lights on the top of a vehicle give the impression it is a taxi for hire, and should be prohibited by any vehicle not registered for hail and rank.

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements. (Page 188)

We feel strongly that there must be nationally set safety requirements. This is especially important for consumer protection, so that consumers know that all vehicles and drivers have reached this national minimum. This would also encourage cross border co-operation.

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards. (Page 189)

“Only” implies that the standards might be low. We feel that the minimum safety standards have to be set at a level to ensure consumer confidence and protect public safety. The use of enhanced CRB checks, for example, in making decisions about driver licensing, should be mandatory.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. (Page 189)

National safety standards should be mandatory and the standard needs to be set at a level which will protect safety, including the use of enhanced CRB checks.

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? (Page 190)

We agree, with the proviso shown in Q 23 above.

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (Page 192)

Taxi standards should be as high, if not higher, than private hire standards, in respect to protection of personal safety, because a taxi can pick up a passenger on the street, and there is no record of the journey. It is up to the passenger to make sure that some one knows where they were picked up and when they are to be dropped off.

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should only cover conditions relating to safety. (Page 192)

Assuming that 'safety' in this context includes factors affecting the personal safety of individuals as well as material safety, such as the road worthiness of vehicles, we agree with this. As such we would hope that issues such as signage are considered to have an impact on personal safety. We would prefer to see nationally consistent approaches to signage of taxi ranks for example, which would be recognizable throughout the UK by residents and tourists alike.

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. (Page 193)

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? (Page 193)

A wide group of stakeholders should be consulted, including consumer representatives licensing authorities and safety organizations as well as taxi and private hire representatives.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. (Page 193)

We agree with this, as long as this does not act as a deterrent to taxis operating across local authority boundaries. This is particularly important from a personal safety perspective because a common reason for individuals choosing to use unlicensed vehicles is the lack of availability of licensed vehicles in an area.

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? (Page 194)

As long as the standards are higher than the minimum, we have no view on this.

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? (Page 194)

No. We do not think that individual licensing authorities should have the discretion to bypass national requirements.

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? (Page 195)

While we recognize that imposed co-operation can sometimes result in additional bureaucracy for the parties involved, we would consider statutory co-operation to be the ideal.

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. (Page 196)

While we consider this a step in the right direction towards more taxis/private hire vehicles became available to consumers in the combined areas, we believe that national standards would be more effective in reducing the risk of area boundaries restricting availability of vehicles.

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. (Page 196)

We would be concerned that too many taxi zones could restrict supply of vehicles to key areas at certain times, which would have personal safety implications for consumers as a result of a lack of available vehicles. We would therefore be in favour of licensing authorities having the option to remove, but not to create, taxi zones within their area.

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? (Page 197)

Anything which ensures that demand and supply for taxi and private hire services can be better matched will help to improve accessibility to licensed services, and therefore lessen the likelihood of passengers taking unlicensed minicabs because no licensed ones are available.

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. (Page 198)

As long as there are national safety standards, and taxis/minicabs are pre-booked, this should improve the relationship between supply and demand.

Provisional proposal 42

We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs. (Page 199)

As the consultation says, there is no consumer benefit in “return to area”

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (Page 200)

As long as this is stated upfront and is a fixed cost (rather than a proportion of the fare) then this could help with ensuring better availability of taxis. Transparency about the fare structure is important.

Question 45

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 203)

We would endorse whichever of these will have the greater effect in terms of ensuring that such standards are met.

Provisional proposal 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. (Page 204)

We agree with this, as long as unlicensed, non-driving owners are not able to drive their licensed vehicles under any circumstances.

Question 47

Should national vehicle safety standards be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions? (Page 205)

We would endorse whichever of these will have the greater effect in terms of ensuring that such standards are met.

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. (Page 207)

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? (Page 208)

Yes: this would encourage the keeping of records which has a positive impact on the personal safety of drivers and passengers alike.

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. (Page 209)

We agree with this.

Question 51

Should "fit and proper" criteria in respect of operators be retained? (Page 210)

Yes.

Provisional proposal 52

Operators should be expressly permitted to sub-contract services. (Page 210)

If this has not shown to have affected the safety of passengers, then we agree.

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? (Page 210)

We would like greater record keeping as we believe it affects both safety and perception of safety, again for drivers and passengers alike.

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers. (Page 213)

The lack of available provision of licensed taxis/minicabs can encourage passengers to take unlicensed/unbooked minicabs. However, restricting the number of taxis can have the unintended

consequence of creating a 'boom and bust' scenario. This can be avoided by measures such as issuing part-time licences for drivers, for example during peak periods of demand.

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? (Page 213)

We believe that the ability to restrict numbers could help to prevent a 'boom and bust' situation. We understand this to mean that, when increased numbers of licenses are issued, this could lead to there being more licensed drivers than the market requires. As a result, licensed drivers could cease to operate in an area, creating a gap in provision which is then filled by unlicensed drivers. If this, in turn, is addressed by the issuing of unrestricted numbers of licenses, the situation could recur, putting at risk the personal safety of passengers.

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed? (Page 215)

Any change of this nature should be phased.

Question 57

Should there be a separate licence category for wheelchair accessible vehicles? This could involve:

(1) a duty on the licensee to give priority to disabled passengers; and

(2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. (Page 217)

Anything which encourages provision for disabled people is to be welcomed.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? (Page 217)

Yes, if this encourages increased provision.

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? (Page 217)

Better training, and penalties in cases where driver have without good reason refused to take a disabled passenger.

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. (Page 218)

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. (Page 219)

We consider this to be essential.

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. (Page 219)

We agree with this, and there should be a clear statement of the penalties drivers may face if a complaint is upheld.

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? (Page 220)

Yes.

Question 64

Should authorised licensing officers have the power to stop licensed vehicles? (Page 222)

Our preferred approach to this would be for authorised licensing officers to continue to work alongside the police, as this would be less likely to pose a risk to their personal safety.

Question 65

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”. (Page 223)

We believe that stiffer penalties should be imposed on touts, alongside increased policing of the night time economy.

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? (Page 223)

We feel that there should be the power to impound the vehicles, which is after all, the instrument through which the offence is being committed, and removing the vehicle is the best way to improve public safety, until the offence is proven or not.

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how? (Page 225)

No. We consider that powers to address this should continue to rest with the police and specified authorising officers.

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. (Page 225)

If the power to license across borders is being implemented, the power to enforce also has to be across borders.

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? (Page 226)

Formal procedures for cross-border cooperation seem the most workable.

Chapter 20: reform of Panels and Hearings

In relation to this whole chapter, there needs to be consistency of approach which should be implemented by national standards and statutory guidelines.

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. (Page 230)

We agree with this.

GMB Submission to the Law Commission



TAXI AND PRIVATE HIRE SERVICES

Submitted on behalf of GMB

by

Mick Rix GMB National Officer

&

Mick Hildreth National Secretary PDC

Law Commission Consultation Paper No 204 Reforming the Law of Taxi & Private Hire Service

Response to the seventy three questions from the GMB National PDC and GMB National Office v3

This document has endeavoured to bring together the Provisional Proposal & Questions into one easy to read format. All actual provision proposals and questions are shown in **Black**. All answers are in **Red**.

Provisional proposal 1: Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. (Page 160)

Answer 1: Agreed the clear distinction between the different types of hire vehicle should remain to service the two different types of customer base.

Provisional proposal Reference 2: *14.6 Given that the aim of this review is to introduce a more simple and coherent system across England and Wales, leaving out the most prominent and important market might undermine this objective and re-introduce further complexity in the interactions of the licensing regimes. Many of the problems we discuss in this review not only exist in London but are most problematic there. Reforms geared towards enhancing enforcement powers and clarifying grey areas such as the approach to internet and mobile phone bookings could be highly beneficial in London.*

Provisional proposal 2: London should be included, with appropriate modifications, within the scope of reform. (Page 162)

Answer 2: London should be a separate entity having only just relatively recently accepted the licensing of private hire /minicabs and is unique in its construction of boroughs. Any directives for changes should come from the elected Mayor.

Provisional proposal Reference 3 & 4: (Page 164)

14.15 Overall, we suggest that the power to regulate taxi and private hire services should apply to a wide range of vehicles. This would give flexibility and scope for imposing different standards in respect of widely different classes of vehicle, and the possibility of exempting certain types of vehicles or services.

Provisional proposal 3: *The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver.*

Answer 3: Agreed. But on what basis is the expression “Wide range of vehicles” meant to cover? What is the definition of “Imposing different standard in respect of widely different classes” This can lead to muddled legislation and contradicts the Law Commissions own directive of “national standards”?

Question 4: Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? (Page 164)

Answer 4: It is presumed (although not defined in the reference) that Pedicabs or such ‘human’ propelled forms of transport should not require a licence. This is a debatable point and not clearly defined and could be

implied that all forms of transport whether be human propelled and motor propelled should be under a separate third tier.

Provisional proposal Reference 5; (Page 165)

The interface with public service vehicles

14.16 Buses and Lorries are regulated as “public service vehicles”. The definition of “public service vehicles” covers any vehicle used for hire and reward adapted to seat more than eight passengers. Public service vehicles fall within the scope of mandatory EU regulations including requirements in respect of drivers’ working time and tachygraphy for example. On the other hand drivers of public service vehicles are not required to undergo criminal record checks.

14.17 Private hire regulation expressly excludes public service vehicles and only applies to vehicles with less than nine passenger seats. Taxi legislation pre-dates modern public service legislation and instead of excluding public service vehicles carves out stage coaches (or “stage carriages” in London) which charge separate fares, as well as tramcars. Unlike private hire vehicles taxis have no limits in primary legislation on their passenger seating capacity. This means there is a potential overlap between public service vehicles and large taxis. We are not aware that this overlap has given rise to practical issues. This is likely to be because public service regulation is sufficiently flexible to cover the role of what would otherwise be a large capacity taxi.⁸ With the exception of systematic sharing arrangements it would be rare for taxis to pick up a sufficient number of passengers to justify using a larger vehicle.

14.18 The considerable discrepancies between public service vehicle regulation compared with taxi and private hire services make it desirable to reduce the area of overlap in order to avoid “regime shopping” (where providers might select the licensing regime that appears least onerous rather than that which is most appropriate). We therefore propose to use the number of passenger seats as a way to mark as clear a border as possible between taxi and private hire regulation on the one hand; and public service regulation on the other.

Provisional proposal 5; Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers.

Answer 5: Agreed PSV’s should not be confused with taxis and private-hire vehicles and the present definition of a licence required for a taxi or private-hire vehicles should be that of 8 seats or less.

Provisional proposal Reference 6: (Page 166)

14.19 The Victorian taxi legislation expressly carves out stage coaches and stage carriages from licensing requirements. The stage coach is an old-fashioned term for what are now referred to as public service vehicles. The problem is that stage coaches and stage carriages are not defined in legislation and their meaning is unclear. Where passengers pay separate fares in vehicles with less than nine passenger seats the law is unclear about whether or not that should count as a “stage coach”.⁹ This means that the proper scope of taxi licensing is, as a consequence, also unclear.

14.20 Pedicabs are a vivid illustration of how references to the out-dated concept of a stage coach causes practical problems in respect of taxi licensing. The courts have taken opposite views when interpreting the London legislation compared with the legislation in force in the rest of England and Wales. In London, pedicabs are considered to be stage carriages and therefore cannot be licensed whereas the opposite view has been taken in the rest of England and Wales so that pedicabs can be licensed as taxis. Significantly the ability to licence pedicabs correlates with the power to ban them because otherwise they would be illegally plying for hire.

14.21 References to “stage coaches” and “stage carriages” charging passengers separate fares no longer play a useful role in defining the limits of taxi licensing and give rise to undesirable uncertainty. We suggest that the exclusion of public service vehicles, suggested in provisional proposal 5 above, is sufficient.

Provisional proposal 6: References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis.

Answer 6: This seems to be misunderstood? It has previously been accepted that hackney carriage taxis can indeed pick up separate passengers en route. Subject to the current passengers agreement... where separate lower fare are then charge proportionately? In fact special taxi meters were designed adopted for this purpose.

Provisional proposal Reference 7:

14.22 We recognise that the overlap between the regulation of small public service vehicles (having eight or fewer passenger seats) and private hire vehicles can give rise to certain undesirable grey areas.¹⁰ The proper scope and effect of the small part exemption is also unclear.

14.23 Whereas public service vehicle standards are outside the scope of this review it is important to get the relationship between the standards adopted under the respective licensing regimes right. This is necessary in order to avoid undesirable incentives and perceived loopholes which might defeat the safety objectives of taxi and private hire regulation. As discussed in Chapter 3 the preferred view is that operators using limousines should in principle seek licences as private hire vehicles where they have less than nine seats. Guidance in this area is, however, not binding. Where local licensing authorities refuse to license limousines at all operators may have little choice but to license their limousines with the Traffic Commissioners as small public service vehicles.

Provisional proposal 7: The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency.

Answer 7: Agreed. However, it should be noted that laws governing the licensing of limousines came into effect on October 1 2009 so if any changes were too made then licensing authorities should be compelled to licence such vehicles by law.

Provisional proposal Reference 8: .(Page 168)

Where driving is an ancillary part of the service

14.26 Where the driver provides other valuable services, such as child-minding services, the position becomes less clear in law. In these examples the emphasis of such services lies in looking after children, rather than in transporting passengers to a destination.

14.27 We take the view that it is undesirable for such activities to be potentially caught by private hire licensing requirements.¹⁵ Taxi and private hire regulation should aim to cover services that are principally for the purpose of transport and have a commercial element. Activities where transport is an ancillary part of the broader service provided should be excluded. The Department for Transport's guidance on private hire licensing uses these questions to help define the proper scope of licensing.

Volunteers

14.28 Volunteers would automatically be excluded by an "in the course of business" definition. Volunteers may be subject to registration under the Vetting and Barring Scheme under the auspices of the Independent Safeguarding Authority. Some services may also be provided under a community transport permit.¹⁷ The organisations that work with such volunteers are often best placed to address the concerns specific to their way of working.

14.29 Requiring volunteers to hold private hire licences (including a driver, vehicle and operator licence) appears excessively onerous and unnecessary. The "in the course of business" concept is already used to define operators in England and Wales but not in the London legislation.¹⁸ Public service vehicle regulation also uses the concept of services provided for hire "in the course of a business of carrying passengers". This qualifier could be helpful in defining the appropriate limits of regulation.

Provisional proposal 8: The concept of "in the course of a business of carrying passengers" should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service

Answer 8: Perhaps consultation with insurance companies may define what is "hire & reward" as such volunteer drivers are usually compensated for mileage / wear and tear which even cover the "wasted" mileage of going to the pick and returning home from the pickup. Additionally, what requirements are needed in regard to CRB checks for volunteer drivers when transporting vulnerable passengers?

Question Reference 9: (Page 169)

Carpooling

14.31 We note that carpooling schemes, where a person driving their car with free seats may offer others a ride, are increasingly popular.²¹ They can be a way of sharing resources in a responsible way and should be encouraged. The internet has opened up many possibilities in this regard.²² Interesting developments abroad include the development of platforms like Australia's "Avego Driver" which allows individuals to advertise free seats in their car in real time and effectively trade car spaces.²³ This is advertised as allowing commuters to save money.

14.32 Carpooling arrangements where passengers pay separate fares are expressly exempted from the public service licensing regime provided they are not “in the course of a business of carrying passengers”. This is not the case in respect of taxi and private hire legislation.

14.33 In carpooling schemes the vehicle is not for hire in a conventional sense but there is payment. The Department for Transport’s guidance suggests that carpooling lacks the commercial element and is therefore not “for hire” within the private hire vehicle licensing regime. The guidance suggests using the rates set out by HM Revenue and Customs for taxation purposes in order to assess the profitability of the arrangements.²⁵ The issue has also arisen in respect of insurance cover, as most car insurance excludes using the vehicle for hire or reward.² Overall, the absence of profit appears to be the determinant.

Club membership and access to private hire services

14.34 The correct approach to private hire licensing as applied to clubs may raise discreet issues. Some private hire services may be offered only to members of a club or to particular sections of the public such as disabled passengers or women. The concept is already familiar in respect of women-only private hire services: female passengers or drivers may feel safer by restricting public access in this way.²⁸ In principle “taxi-type” services could be similarly restricted: certain vehicles could, for example, only respond to hailing by women.

Question 9: How, if at all, should the regulation of taxis and private hire deal with:

- (a) Carpooling; and
- (b) Members clubs? (Page 170)

Answer 9: Carpooling is an environmentally encouraged form of transport where the “passengers” would be pooling their resources and sharing the costs of the transportation in one way or another. Providing such carpooling does not result in profit making then be of a consequence to the matters of private hire and hackney carriages and muddies the water unnecessarily.

Club Membership has previously been attempted in various guises with the USP of being for female passengers only. The normal procedure is that a monthly “club membership” is paid, Rather than on a fare per journey basis. However, as there is profit involved then these “Club Memberships” must fall under private hire licensing. These “Club Memberships” were introduced to circumvent the burden that private hire operators have been required to adhere to.

MAKING EXCLUSIONS FROM THE REGULATORY REGIME

14.35 *The wide and purposive definitions we suggest in respect of the vehicles and services to be covered mean that, inevitably, some activities may be caught within the general regime which should not be. This is particularly true of private hire vehicles where pre-existing arrangements are in place.*

14.36 *A key rationale for excluding a category of drivers or vehicles from the regulatory framework is where there are alternative structures already in place to ensure safety and quality controls are met. For example, accredited tour guides have to comply with their own set of requirements: in some respects they are more onerous and in others less so, and this is tailored to what they actually need to do.*

The role of the Secretary of State and Welsh Ministers

14.37 *In the next chapter we will suggest that the Secretary of State and Welsh Ministers should have certain standard setting powers in respect of safety-related conditions for the purposes of taxi and private hire regulation. The Secretary of State and Welsh Ministers may make different provisions, or none, for different types of activity or descriptions of vehicles.*

14.38 *A similar approach has been taken in Ireland. Here primary legislation defines large and small public service vehicles and the centralised licensing authority has broad discretionary powers to make regulations governing different classes of vehicles.³⁰ In Australia, the state of Victoria has taken a similar approach. In France some fringe services are regulated separately. These include taxi-bikes and driver guides.*

14.39 *As standards for private hire vehicles could only be set at a national level any exemptions from regulation would also have to be nationally set. On the other hand, because taxis would remain subject to additional local standards, the decision whether to make exclusions from licensing could also be a local decision.*

Provisional proposal Reference 10: (Page 171)

The role of the Secretary of State and Welsh Ministers

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14.38 A similar approach has been taken in Ireland. Here primary legislation defines large and small public service vehicles and the centralised licensing authority has broad discretionary powers to make regulations governing different classes of vehicles. In Australia, the state of Victoria has taken a similar approach. In France some fringe services are regulated separately. These include taxi-bikes and driver guides.

14.39 As standards for private hire vehicles could only be set at a national level any exemptions from regulation would also have to be nationally set. On the other hand, because taxis would remain subject to additional local standards, the decision whether to make exclusions from licensing could also be a local decision.

Provisional proposal 10: The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes.

Answer 10: Firstly, there is the argument of what would be ‘minimum’ standards before being able to answer the specific question. What would be the point of setting national standards if those national standards do not apply throughout every licensing authority?

Provisional proposal Reference 11: (Page 172)

The exemption for weddings and funerals

14.41 Where a vehicle is hired in connection with a funeral or a wedding it is currently exempt from private hire vehicle licensing requirements.³³ This exemption can appear arbitrary. Safety-related regulation would appear no less justified in respect of these sectors compared with any other ceremony or event. Some stakeholders have also pointed out that what may be covered by “being used in connection with a wedding” is not clear.

14.42 We note that wedding cars could be provided by companies that also provide transport for other occasions which would not give rise to an exemption, for example, stag parties, anniversaries or proms. It is not clear why weddings should be singled out. On the other hand the case for continuing to exclude funeral cars may be stronger because they would usually be provided as part of the broader funeral service and transport may be regarded as an ancillary function.

14.43 Whether wedding and funeral cars should be regulated or not may well be dependent on factual contingencies about the organisation of the industry, which may change over time. We therefore think it is sensible to include these particular situations within the broad scope of the regulatory regime, and then look to the Secretary of State and Welsh Ministers to exercise his or her power to not make substantive provision in relation to them if that is the right approach in accordance with our provisional proposal 10 above.

Provisional proposal 11: Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation.

Answer 11: The worrying aspect on this is that the “proposed” national private hire standards would be reduced to that of a funeral car? Such licensing should not apply to funeral or wedding cards providing that these vehicles adhere to such work. If wedding and funeral cars are deemed to require a licence then a third licensing tier should be introduced specifically to cater for such vehicles. It is daft to consider such vehicles especially those that are purpose built to carry the deceased as being in the same class as vehicles which can ply for hire!

Question Reference 12: (Page 174)

Reinstating the contract exemption?

14.44 The so-called contract exemption excluded vehicles under a contract of hire for a period of not less than seven days. This was repealed in 2008. The purpose of the repeal was to enhance public safety through ending perceived loopholes; however, an independent review of the effects of the repeal found that only half of respondents felt the original aims had been achieved.

14.45 The rationale for the contract exemption was that where long-term contractual arrangements are in place the contracting parties can put in place sufficient safeguards in respect of vetting vehicles and drivers on their own terms. In these cases there is no need for the burdens of general licensing criteria to be met. Public bodies in particular, such as the NHS and education authorities, need to set up large contracts for transporting children and vulnerable individuals. Such organisations are best placed to set standards and monitor their attainment.

Unlike most pre-bookings, such contracts will typically be subject to negotiations and be in writing. Stakeholders have told us that public sector bodies have dedicated teams overseeing such contracts. There may therefore be some doubling-up of oversight and requirements.

14.46 The public safety argument in support of the repeal is less convincing because the most vulnerable passengers are in many cases transported by volunteer or contract drivers that would fall outside the taxi and private hire licensing regime anyway. Where services are remunerated, as with care workers for example, this is typically as part of a wider package, often with carers using their own vehicles.

14.47 The review of the impact of the repeal of the exemption also pointed out that public spirited individuals, some of whom had been offering long-term services based on lasting relationships, had been put off by the extra costs of licensing.

14.48 Where longer term contracts are in place the market failures related to asymmetry of information are less likely to exist. The customer is in a much stronger bargaining position; indeed the more sophisticated public sector organisations can organise tenders in order to select their providers and, depending on the size of the contract, may be required to do so under European law. On the other hand we recognise the reasons for the original repeal, including concerns that it was being abused by unscrupulous providers. Unfair competition by providers of similar services, but which do not have the same licensing costs as the licensed trade, may also raise concerns.

14.49 On balance we suggest that the Secretary of State and Welsh Ministers' standard-setting powers would be the more appropriate means of addressing the contract exemption. The advantage of using such powers would be the flexibility in amending the terms of the exemption in response to developing needs and perceptions. For example the exemption might only apply where the customer is a public sector organisation or for a contract period longer than 7 days. Alternatively certain limits on the contract exemption which had been introduced through case law might be made express, including for example the requirement for the contract to have an end date, or that it relate to a specified vehicle.

Other specific exclusions

14.50 Whether any particular activity should be exempted is inevitably fact-based. Qualifications from certain accredited professional organisations might, for example, be accepted as satisfying the taxi and private hire licensing requirements. This might be true, for example, of the blue-badge tour guides. A list of such organisations could be set up. The Department for Transport's guidance on private hire licensing provides another source of potential exemptions from regulation, for example in respect of ambulance services.³⁸

14.51 Overall any list of specific exclusions would inevitably require some regular updating and be heterogeneous in nature. This suggests that the power to make exclusions is best left to the Secretary of State and Welsh Ministers rather than setting out specific exclusions in primary legislation.

Question 12: Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse?

Answer 12: The repeal of the Act in 2008 was a positive step in removing the loopholes by those people who have been recognised by the LC as being "On the other hand we recognise the reasons for the original repeal, including concerns that it was being abused by unscrupulous providers." So to remove this step forward is simply taking a step backward and would only allow such 'unscrupulous' providers to operate again.

Provisional proposal Reference 13: (Page 175}

Other limits on the reach of licensing
Streets and private land

14.52 The statutory framework does not take a consistent approach towards private land. Significant areas, such as hospitals, airports, railways, shopping centres and amusement parks, can fall within this category.

14.53 Some aspects of regulation are limited to (public) streets. This is true of plying for hire outside London for example. On the other hand, the concept of compellability is limited to streets in both London and the rest of England and Wales.³⁹ Other licensing requirements applicable to drivers and vehicles apply independently of the public/private land divide within a licensing area. Similarly fare regulation applies “within the prescribed distance” and therefore applies no differently on public or private land. The issue has arisen as a cross-border problem in respect of out-of-area taxis perceived to be picking up illegally. This in turn has affected the ability to enforce licensing standards (which we have seen are limited in respect of out-of-area vehicles and drivers)

14.54 Railways, which are on private land, have been dealt with specifically by statute so that licensing authorities’ requirements can apply to the railway station precinct as if it were a street or rank. There is no equivalent provision in respect of airports.

14.55 Subject of course to the requirement to comply with additional conditions imposed by private land owners, it would appear desirable to remove restrictions on the applicability of regulation by reference to streets. The imperative of public safety applies no differently whether services to the public are being provided on public or private land. The general law would therefore apply as a default minimum standard which could be raised by private land owners. This adopts the current position in London.

Provisional proposal 13: Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to “streets”.

Answer 13: Agreed

Question Reference 14: (Page 177)

Airports

14.56 Unlike railways, taxi and private hire legislation does not deal with airports specifically. Airports are now mainstream transport hubs and market failures in airport settings are, if anything, more extreme than those at railway stations. Consumer transport options at airports for onward travel can be limited and some do not have rail links. Particularly vulnerable consumers, such as tourists, are a significant part of the customer base. This makes information deficits a particular problem. Airports also have limited space which in turn also reduces the scope for competition.

14.57 If passengers have a problem, the airport authority may be the first point of contact to make a complaint. We understand this was a key factor for Gatwick airport in moving to a single private hire contractor. This allows scope for the airport to prescribe detailed conditions on the level of service they expect.

14.58 The above factors suggest that the reasons for extending taxi and private hire regulation to railways might similarly apply in respect of airports. Airports are subject to complex and comprehensive regulation by the Civil Aviation Authority. Byelaws under the Civil Aviation Act 1986 also cover the provision of taxi services. Some airport owners enter into contracts with chosen taxi and private hire companies and restrict access for all other providers. Other vehicles may only park some distance from the airport terminal, in the car park, for example.

14.59 It is important to consider how regulation can encourage competition and consumer choice. Funding information desks through a levy on the trades can be controversial. A requirement to monitor customer satisfaction according to agreed parameters could prove useful. Waiting times and facilities could be rated, and benchmarking could be used to ensure that if satisfaction fell below agreed levels regulators might intervene.

Question 14: Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank?

Answer 14: Why does the LC wish to meddle with existing suppliers at airports? Referring to Gatwick, the contract is offered out to tender. The winning tender is then under an obligation to supply a good standard of service. There is nothing whatsoever that stops other taxi/private hire companies from picking up customers that have booked. Normally this is a case of the driver making a return trip for the customer. It could be argued that the current position is regulated by the airport authorities who ensure that a good standard of service is offered and maintained. It is understood that airports contract taxis/private-hire vehicles uses such vehicles which are licensed by the local authority therefore such taxi and private-hire regulations currently does and would automatically apply? Is this a case of the Law Commission not fully understanding the current provisions?

THE TWO TIERS - DEFINING TAXIS

14.60 The defining feature of taxis under the current law is the ability to “ply for hire”. Plying for hire means, at its most basic, exhibiting a vehicle as available for immediate hire by the public. The term “plying for hire” has been used in all major legislation concerning taxi regulation for hundreds of years. Its endurance and flexibility are anchored in practice and experience.

14.61 On the other hand our analysis of the current law highlighted three key issues relating to “plying for hire”. First, it lacks a statutory definition. The meaning of “plying for hire” can only be understood by reference to a long and not entirely consistent line of cases. Given that unlawful plying for hire is a criminal offence it is important that its meaning should be clear and accessible.

14.62 Secondly, the key criteria used in the case law, which refer to “exhibition” of the vehicle and to the immediacy of availability for hire, do not clearly distinguish taxis and private hire vehicles. The difference between exhibiting a vehicle and merely driving around or parking is not obvious. Advances in technology mean that the difference in timing between a hailing and a pre-booking could become negligible.

14.63 Thirdly, and connected with the above, the concept of plying for hire does not take into account the legitimate activities of licensed private hire vehicles, predating, as it does, the licensing of private hire services.

14.64 We acknowledge that whether any vehicle is plying for hire is a question of fact and degree and the criteria developed in case law are useful in determining borderline cases. However we suggest that the central aspects of plying for hire should be put on a statutory footing in order to be more accessible and better reflect modern understandings of what taxis do.

14.65 The exact terms of a statutory definition would be a matter for the person drafting the legislation. But we suggest three key elements of a proposed statutory definition: use of the concepts of ranking and hailing, reference to a non-exhaustive list of factors relevant to determining plying in borderline cases, and accommodation of the legitimate activities of private hire vehicles. We consider each of these elements in more detail below.

Ranking and hailing

14.66 First, we suggest a statutory definition should use the concepts of ranking and hailing. This is important because it also reflects the reasons for regulating taxis differently to private hire vehicles.

14.67 In Chapter 7 we discussed how the rank and hail markets are markedly distinct from the pre-booked market. In the rank and hail markets competitive forces which typically protect consumers do not function properly. By contrast when prebooking consumers can make more meaningful choices. No-matter how fast the pre-booking might be the consumer is selecting a provider. Providers can build goodwill which can generate more bookings. This initial choice is itself open to competitive market forces like price competition, prior experiences and advertising. The key distinction relevant in this respect is therefore the lack of competition between different taxi service providers. There is no meaningful consumer choice as between different taxis.

14.68 The market failures described above, which justify different regulation for taxis compared with private hire vehicles, are of central importance and should be clearly reflected in the definition which divides the two sides of the trades. We also note that the distinction between rank and hail work and pre-booked work is recognised by the licensing regimes of many other jurisdictions, including Ireland, France and New York. It is also interesting to note that in some locations, taxis are excluded from pre-booked work.

A statutory list of factors suggesting plying

14.69 Second, the statutory definition needs to address behaviour not strictly linked to formal ranks or hailing but which is associated with accepting passengers without a pre-booking. This can be illustrated in the following diagram:



14.70 The area represented in the large circle above includes equivocal behaviour which amounts to plying for hire through actions like the exhibition of the vehicle and implied invitations to the public to engage the vehicle without a pre-booking (more directly linked to the driver's intentions and behaviour).

14.71 So-called "unofficial" or "illegal" ranks are sometimes formed by private hire vehicles waiting in the proximity of ranks and other popular pick-up spots, and can be perceived as unfairly competing for custom by the taxi trade. The dividing line between mere parking in public view ("exhibition" in the case law) and forming an illegal rank is notoriously difficult. The intention of the driver has played a significant role in the case law.

14.72 We suggest that a statutory definition could refer to a non-exhaustive list of factors relevant to plying for hire. This could build on current case law, and because plying for hire remains a question of fact and degree, licensing officers' discretion would remain crucial. The same is true of judicial discretion in deciding relevant cases. However, listing the factors could have the advantage of greater clarity and accessibility.

14.73 As an example, Paterson's Licensing Acts gives a useful summary of the types of factual situations which may amount to plying for hire:

- (1) inviting and attracting customers for immediate hire whilst driving around;
- (2) stopping on a taxi rank to pick up customers;
- (3) stopping on a street in order to attract customers; and
- (4) picking up customers who approach the vehicle in the street.

Legitimate activities of licensed private hire vehicles

14.74 A statutory version of plying for hire would have the advantage of being able to take into account the legitimate activities of private hire vehicles. The scope of what is legitimate correlates directly with what is not plying for hire and is (to that extent) circular. The exact wording of the definition would be for the Parliamentary draftsman, but we see it as desirable that it clearly delineates the boundary between taxis and private hire in a way that clarifies the relationship.

Provisional proposal 15:

The defining feature of taxis, the concept of "plying for hire", should be placed on a statutory footing and include:

- (a) references to ranking and hailing;
- (b) a non-exhaustive list of factors indicating plying for hire; and
- (c) appropriate accommodation of the legitimate activities of private hire vehicles.

Answer 15: Our union... the GMB...believes that a clear distinction is needed to ensure for reasons of safety that the general public are aware that Private Hire Vehicles are only pre bookable.

Plying for hire and technology

14.75 We suggest that plying for hire should not be interpreted to extend to novel technological ways of engaging vehicles, through mobile phone and internet assisted applications for example, which should remain means of pre-booking. We recognise that technology means taxis and private hire vehicles can be engaged with very quickly, sometimes almost immediately. However, the critical factor distinguishing plying for hire from pre-booking is the method of engagement, rather than the speed of engagement.

Provisional proposal 16: The concepts of hailing and ranking should not cover technological means of engaging taxi services.

Answer 16: Agreed in conjunction with answer 17 below:

Question Reference 17: (Page 182)

Possible alternatives to "plying for hire"

14.76 We also consider further alternatives for describing taxi services, other than through references to plying for hire, ranking and hailing. In Scotland, for example, taxis are defined as:

“A hire car which is engaged, by arrangements made in a public place between the person to be conveyed in it (or a person acting on his behalf) and its driver for a journey beginning there and then.”

14.77 Private hire cars (as they are known in Scotland) are any kind of vehicle which is, with a view to profit, available for hire by the public for personal conveyance, but is not a taxi.

14.78 The taxi definition retains the idea of immediate availability for hire, but balances the difficulty of ascertaining this with a functional approach and a move away from looking at the intention of the driver, to an objective assessment of how the arrangement was made. However, references to “arrangements made in a public place” could give rise to difficulties particularly in respect of the internet.

14.79 Another alternative would be to adopt a taxi definition linked to the privilege of direct on-the-spot hiring which is not shared by private hire vehicles. Private hire vehicles could be defined by the fact that they require a third party in order to be booked. However there are significant drawbacks to this approach. In particular, what can count as on-the-spot hiring does not necessarily distinguish between competitive and non-competitive markets. Smartphone apps linked to a particular operator may be regarded by many as a direct, on-the-spot, booking; as may certain taxi pre-booking platforms and yet these booking.

Question 17: Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”?

Answer 17: Agreed, the Scottish definition in principle could be adopted with adjustment:

“A hire car (hackney carriage taxi) is one which is engaged, by arrangements made in a public place between the person to be conveyed in it (or a person acting on his behalf) and its driver for a journey beginning there and then by physical human indication of hailing or intervention.”

“A private hire car is one which is engaged via prior booking and not immediately hired without a recorded booking, and not hired in the street by means of physical human indication of hailing or intervention”

Provisional proposal Reference 18: (Page 182)

Compellability

14.80 Another key feature of taxis, to be contrasted with private hire vehicles, is that under current law they are not permitted to refuse jobs once the consumer has engaged them appropriately, either at a rank or as a result of hailing. As well as a legal requirement, this is a deeply-rooted custom, and effective (in combination with other measures) at combating discrimination. We propose to retain compellability in substantially the same form as under current law.

Provisional proposal 18: The concept of compellability, which applies exclusively to taxis, should be retained.

Answer 18: Agreed. Retaining compellability provides for ‘cherry picking’. However, there should also be maximum distance or length of time stipulated that compellability should apply. It would not be suitable for a driver to be compelled to undertake a long journey having already worked long hours.

Provisional proposal Reference 19: (Page 183)

DEFINING PRIVATE HIRE SERVICES

14.81 Under current law the key distinction from taxis is achieved through restricting private hire vehicles in how they can be engaged by consumers. Bookings must be made in advance and through a licensed operator. We do not propose to change this. Our discussion of the impact of technology on taxi and private hire services in Chapter 12 illustrates that it is critical that the concept of pre-booking should be flexible and broad enough to cover innovative ways of engaging taxis and private hire vehicles. We discuss operator licensing in Chapter 16 below

Provisional proposal 19: Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked.

Answer 19: Agreed. However it should be considered that pre-book would have to be defined. At present a private-hire proprietor/driver can also hold an Operator’s Licence and thus confuse the actual limitations of a private-hire vehicle to not accept hailing’s or immediate approach. This means that it could be possible for such a proprietor/driver of a private-hire vehicle to be operating the vehicle in conjunction with the

Operator's Licence and thus take 'pre-booked' work which is actually... and in reality ...hailed work or work gain by immediate approach in the streets.

Provisional proposal Reference 20: (Page 184)

LEISURE USE OF VEHICLES

14.82 *There is a divergence under current law in respect of whether licensed taxis and private hire vehicles can be used for leisure purposes and be driven by unlicensed drivers. In England and Wales outside London leisure use is not allowed, case law having created the concept of "once a taxi, always a taxi". The position is different in London. Transport for London takes the view that London taxis and private hire vehicles can be driven by unlicensed drivers.*64*

14.83 *We note that both approaches have some draw-backs: restricting use to only licensed drivers is very onerous as it means the family car cannot, for example, double-up as a taxi or private hire vehicle.*

14.84 *On the other hand, it makes it difficult to enforce the legislation if the driver can argue the vehicle was being used privately at any time.*

14.85 *On balance we are persuaded that the deregulatory arguments in favour of allowing leisure use are strongest. Transport for London's approach has not led to any obvious problems. Any difficulties in enforcement can be overcome by reversing the burden of proof. The presumption could be that a taxi or private hire vehicle is being used professionally, but it would be open to a driver to show that in fact the vehicle was being used recreationally.*

**64For taxis, this is in reliance on Metropolitan Public Carriage Act 1869, s 28, which states that "no hackney carriage shall ply for hire ... unless under the charge of a driver having a licence ... " Transport for London interprets this as meaning that a taxi will not be plying for hire when it is driven by someone other than a licensed driver. For private hire vehicles reliance is placed on Private Hire Vehicles (London) Act 1998 section 12(1) which states that "no vehicle shall be used as a private hire vehicle ... Unless the driver holds ... a licence." Transport for London takes the view that this enables a vehicle not to be used as a PHV when it is being used for social purposes.*

Provisional proposal 20: Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved

Answer: 20 Agreed. Restricting eligibility of only licensed drivers being allowed to drive a taxi or private hire vehicle is not required. There are many reasons adopt the Metropolitan view including the use of such vehicles being driven by mechanics and such like. Around twenty-five years ago or so a hackney carriage could be road funded under a special "Hackney Carriage" category at a reduced rate. This was removed and such hackney carriages were then road funded under standard "Private" use and rates.

Additionally, it is almost impossible to obtain insurance for public hire with social and domestic use.

Provisional proposal 21: (Page 185)

STATUTORY GUIDANCE

14.86 *Many of the concepts used in taxi and private hire licensing are highly fact specific. They require the licensing authority to make an assessment of the circumstances of the particular case. There is limited scope for any clear-cut definitions. We suggest that a power to issue statutory guidance should be provided in legislation. It could then be up to the Secretary of State and Welsh Ministers whether to make guidance or not as they chose. However if such statutory guidance was in place, licensing authorities, and judges deciding cases, would be obliged to consider it in exercising their functions. This could help clarify the scope of the legislation and aid consistency in the application of the legislation across different licensing areas.*

14.87 *The Department for Transport's existing guidance on what can count as a private hire vehicle could, with appropriate adjustments, be used as a basis for such guidance, but with enhanced effect because licensing authorities would be obliged to take it into account.*

Provisional proposal Reference 21: The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements.

Answer 21: Disagreed. However, if this is implemented this **MUST** be done in conjunction with full consultation with all the Union and Trade Reps. If this consultation is not permitted then this is strongly Disagreed.

Provisional proposal Reference 22: .(Page 185)

TERMINOLOGY

14.88 The current position in respect of labelling taxis and private hire vehicles is in some respects unsatisfactory. We suggest that legal language should abandon the hackney carriage definitively in favour of “taxi” as used in the Transport Acts.⁶⁷ On the other hand references to “private hire vehicles” in legislation provide a helpful technical term with the benefit of marking a clear distinction between such pre-booked services and taxis. We therefore suggest there are no compelling reasons to abandon the current division between taxi and private hire terminology.

Provisional proposal 22: Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned

Answer 22: The term ‘Taxi’ should only apply to what we now call Hackney Carriages **FULL STOP**. The public need to be ‘educated’ as to the difference. Private Hire vehicles should be clearly different in name and livery. It is quite unbelievable that the Law Commission seems intent on causing complete confusion to the public!

Question Reference 23: (Page 186)

14.89 *Every-day usage of the words “taxi” and “private hire vehicle” raises different issues. Current law prohibits private hire operators from using the word “taxi” or “cab” in signage and advertising. “Taxi” signage is internationally recognised and firmly established, whereas culturally there is no uniform and easy way for people to correctly refer to private hire vehicles. Although “private hire vehicle” provides a useful technical term it is alien to most users’ vocabulary. Users of private hire services may refer to the company’s name if it is well-known but there is a gap in respect of correctly referring to the category of pre-booked vehicles. Many users will use the term minicab, or may simply (incorrectly) refer to such vehicles as taxis.*

14.90 *We suggest for consideration the idea that advertising for private hire services could include use of the word “taxi” or “cab” provided it was in combination with “pre-booked” or equivalent qualifying language to signal the limited way consumers could engage them. The London legislation for example specifically allows private hire vehicles to refer to themselves as “minicabs”, reflecting popular usage. Our suggestion could have the added bonus of making clear how passengers could properly use private hire services. This in turn could reinforce, rather than damage, the distinction between taxis and private hire vehicles.*

14.91 *If private hire vehicles were allowed to be referred to as “pre-booked taxis” other practical provisions would be needed in order to avoid customer confusion. For example, the Secretary of State and Welsh Ministers might prohibit the use of roof signs and roof lights on private hire vehicles in order to avoid confusion. This could help avoid the impression that private hire vehicles could be hailed. The application of local standards could also assist in making the demarcation between taxis and private hire vehicles obvious, for example through imposing a specific colour scheme or signage on taxis.*

14.92 *We recognise that allowing private hire vehicles to use the term “taxi”, even if in combination with a qualifying prefix, would be a significant change, and more controversial than the less specific word “cab” for example. On the other hand many consumers use the term taxi in respect of both sides of the trade. For such consumers the key message is that private hire vehicles can only be pre-booked.*

Question 23: Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion?

Answer 23: Strongly disagree. Any such changes to allow a private hire company to use the terminology will only confuse the customers and encourage illegal hiring’s. The word “taxi” is universally used in most languages and to consider apply this terminology to private hire vehicles is quite unacceptable.

A REFORMED REGULATORY FRAMEWORK

Provisional proposal Reference 24: (Page 188)

Minimum national safety standards for taxis

15.10 We propose that taxi regulation would continue to work differently from private hire regulation due to consumers' ability to engage taxis at ranks and by hailing. The local nexus is strong. The ability of licensing authorities to control pricing and apply extra local standards to match local conditions is therefore important.

Licensing authorities would retain the ability to impose requirements over and above the national standards to taxis being hailed or using ranks within their licensing area. These could be linked to increased safety, but we also recognise that licensing authorities may wish to impose other quality standards, for example in order to promote civic pride or meet the needs of a specific community. Examples of these higher standards could include requirements in respect of wheelchair accessibility, colours and signage, CCTV, topographical knowledge tests or specific vehicle requirements such as the turning circle. We therefore suggest that some additional standards by licensing authorities should be allowed.

Provisional proposal 24: Taxi and private hire services should each be subject to national safety requirements.

Answer 24: This question is muddled. The heading refers to "Minimum national safety standards for taxis" And yet the proposal relates to taxi and private-hire services. Is the Law Commission confused?? However, in regard to national safety standards this 'standard' needs to be defined before any definite answer can be given

Provisional proposal Reference 25: (Page 189)

Mandatory national safety standards for private hire services

15.11 We propose that the regulation of private hire services should be limited to addressing bottom-line safety concerns in accordance with standards set by the Secretary of State and Welsh Ministers. Licensing authorities would not have the power to impose additional requirements on private hire drivers, vehicles or operators. We refer to private hire services standards as mandatory because they act as both a minimum and maximum regulatory standard. Of course private hire companies would be free to offer services above the levels required by regulation, but this would be a choice in response to competitive forces rather than to artificially imposed regulatory standards.

Provisional proposal 25: National safety standards, as applied to taxi services, should only be minimum standards.

Answer 25: Strongly disagree; Minimum National standards are unacceptable without the ability of local authorities to enhance these if they wish. Localism is a national policy of the Government and this suggestion opposes localism.

Provisional proposal Reference 26 (Page 189):

15.12 *A significant consequence of our provisional proposals is that topographical knowledge tests could no-longer be required for private hire drivers. Whereas a drivers' topographical knowledge is a key aspect of the quality of service it is not obviously a safety feature.*

15.13 *As also explained in Chapter 7 discussing the regulatory principles guiding this review, the reasons for treating private hire vehicles differently are two-fold. First, for private hire vehicles, all journeys are pre-booked and therefore in principle can be planned in advance. As journeys are not subject to metered fares (or at least are not required to be metered), the economic incentive to take the shortest route lies with the provider. Second, having a driver who knows where they are going is a quintessential example of providing a good quality service but does not affect the safety of the passenger. Given prevailing competitive conditions in the private hire market, if an operator had drivers who routinely got lost such an operator would not only lose money (through inefficient routes) but also lose customers. Unlike taxis, consumers can choose to avoid particular providers, so that private hire vehicles rely on repeat custom. These factors point against the necessity of requiring a topographical knowledge test for private hire vehicles.*

Provisional proposal 26: National safety standards, as applied to private hire services, should be mandatory standards.

Answer 26: A full survey should be compiled to see how many authorities insist on some kind of topographical test is required. It does seem that the Law Commission is ignorant of how the general public

actually orders a pre-booked vehicle. An order may only be initially made with an indication of an area that a customer is going to. Such as 'into town' and no specific end destination may be known when the booking takes place. Or indeed, the journey may consist of multiple pick-ups and drops which are not defined in the original booking. However, the 'professional' driver should have good knowledge of the area in which he/she is working otherwise this would be in detriment to the service of the customer.

Individual authorities should have the power to enforce a topographical or 'knowledge' test of all private-hire drivers if the authority deems it necessary. And this goes hand in hand on stopping cross border.

However, it is clear the Law Commission is determined to have a single national private hire standard with a saturated cross boarder regime. Therefore the principle of abolishing an authority's high standard of such a topographical/knowledge test entirely suits the Law Commission.

Provisional proposal Question Relevance 27: (Page 190)

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³ An example of a standard which could arguably relate to both safety and civic pride is the imposition of a particular kind of signage. ⁴ This follows from our discussion of the justifications for regulation tied to market failures. Although asymmetry of information and welfare considerations mean that certain basic safety features should be the subject of regulation, the other features of the competitive market in private hire services obviate the need for additional local regulation. This model assumes that private hire operators adopt higher standards but in response to competitive forces and consumer preferences rather than regulation.

Provisional proposal 27: Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers.

Answer 27: Disagreed. This actually shows a lack of understanding of the trade in the UK and seems geared to the London Metropolitan standards for private hire vehicles (minicabs) which have only been licensed for a significantly small amount of time compared to private hire vehicles being licensed outside London since 1976!

If a private hire driver does not have a good knowledge of the area worked then when a customer decides to change the route then the service is delayed. Additionally, meters are indeed used in private hire vehicles. Although the rates cannot be governed by local council, It is understood that the only area that has a blanket ban on meters in private hire vehicles is London (minicabs). Additionally London does not require drivers of such private hire vehicles to have a licensing authority conducted topographical knowledge test.

It is a complete and utter backward step to introduce rules that will drop the requirement for a private hire driver if a local authority decides that this is best. However in rural areas it may well be a different story, so again highlights the need for local standards rather than a national one size fits all. This reflects on the government's policy of Localism.

Perhaps the Law Commission visualises private hire drivers as sitting in an office and being passed a pre-booked job several hours before booked time which gives the driver plenty of time to prepare a route. This certainly is not the case.

The only advantage of not having a topographical knowledge test would be for the larger companies that have a monopoly in an area who have a high turnover of drivers.

It has been quoted in an online trade forum (<http://tinyurl.com/londonphquote>) that a London Private Hire Trade rep, Mr Mason that:

"In the first 5 months of this year (2012) 55.8% of drivers who's licenses expired renewed"

Which means that 44.2% of drivers, whose licenses run out this year, have decided to leave the trade for good.

Perhaps this is an indication of how the private hire trade (minicabs) in London is not regarded as a professional trade to be in as there is obviously no professional commitment to the trade because of the lack of any topographical knowledge test?

Question Reference 28: (Page 190)

15.14 On the other hand, we also recognise that particular areas of private hire standard-setting may be regarded as *having a significant local dimension*. For example *vehicle signage, which relates directly to the interface with taxis and the recognisability of licensed vehicles (with important repercussions on passenger safety), may warrant the continued application of local standards*.

15.15 *In respect of safety considerations, some may regard signage on private hire vehicles as a critical way of promoting consumer awareness of legitimate providers. Others may regard signage as confusing to the public and encouraging passengers to board cars without a pre-booking. Some differences of opinion may stem from genuine differences in the problems faced in different localities.*

For example, where illegal touting by unlicensed vehicles is the main concern signage (distinguishing licensed vehicles from completely unlicensed ones) may be a good thing; however, in localities that do not have such a problem but rather experience difficulties with licensed private hire vehicles illegally plying for hire (picking up passengers without pre-booking), signage may be less relevant. This suggests that local decision-making in respect of signage may be preferable.

Question 28: Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable?

Answer 28: Agreed local standard setting for Private Hire Vehicles should be kept for vehicles signage.

Standards of driver knowledge, vehicle standards are all equally important with relation to the service delivery to consumers and all should be under the control of the local authority who are in the best position to judge their area's needs.

Question Reference 29: (Page 191)

The relationship between national safety standards for taxi and private hire services

15.16 *We suggest that both taxi and private hire services should be subject to national standard-setting. The question arises as to the proper relationship between national taxi safety standards on the one hand, and national private hire safety standards on the other.*

15.17 *As private hire standards would apply without geographical variation, we suggest that taxi standards would have to be at least as high as, if not higher, than private hire safety standards. This is because taxis and private hire vehicles compete in respect of the pre-booked market. If a licensing authority could adopt taxi standards that were lower than the proposed mandatory private hire standards drivers would have an incentive to license in that area even if they had no intention of working there as taxis. This would undermine the objectives of private hire vehicle licensing and distort the licensing regime.*

15.18 *We note that a common set of bottom-line safety standards does not translate to a common set of specifications. Different types of vehicle will, for example, require different criteria to be met, and indeed, passengers taking certain modes of transport may implicitly undertake a greater degree of acceptable risk, as in respect of motorbikes, for example. We would expect the Secretary of State and Welsh Ministers to issue a range of requirements in respect of different categories of services and vehicles.*

15.19 Introducing a single set of bottom-line safety standards for taxis and private hire vehicles would be the easiest way to avoid the risk of a mismatch in taxi and private hire standards. However, we realise that the different ways of working of taxis and private hire vehicles may make it impractical to use the same standards across both.

Question 29: What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles?

Answer 29: Our Union believe that Government may set national standards but cannot override the local authority's ability to enhance the standards of their licensed vehicles should they feel the national standard is unacceptable to the local area's needs.

Question Reference 30: (Page 192)

Driver safety

15.20 Safety goes beyond passenger safety to include the safety of drivers.⁶ Attacks on drivers are a significant concern. Many such attacks have been racially motivated.⁷ Indeed the recent murder of a taxi driver in Bedford led to a parliamentary debate on the subject.⁸

15.21 The London Conditions of Fitness require a partition between the driver and passenger. This could be regarded as primarily for the protection of the driver. A panic button is another example of a potential requirement enhancing driver safety. Oxford City Council's plans in late 2011 to require taxis to have CCTV, including recording all audio conversation raised great controversy and media interest.⁹ The council hoped such measures might provide better evidence of attacks on drivers and help resolve allegations of driver misconduct more fairly.

The policy was due to come into force on 1 April 2012 but at the time of writing has been placed on hold.¹⁰ We also note that Southampton City Council is conducting a review of its policy to install image and sound recording devices in taxis, which was challenged in court.¹¹ We also note that this may be an area where different safety standards could apply to taxis compared to private hire vehicles.¹²

⁵ See *R (on the application of Newcastle City Council) v Berwick-upon-Tweed Borough Council* [2008] EWHC 2369 (Admin); [2009] RTR 34; and the discussion in Chapter 10 above.

⁶ On the other hand there are considerable differences between passenger safety and driver safety. In particular, the reasons that prevent passengers from adequately protecting themselves do not apply in the same way to drivers. Drivers are also in a comparatively less vulnerable position compared to the passenger in light of their control of the vehicle.

⁷ See, for example <http://www.gazettelive.co.uk/news/teeside/news/2012/01/12/billinghamman-locked-up-for-race-attack-on-taxi-driver-84229-30104510/> (last visited 23 April 2012) and <http://www.hampshire.police.uk/Internet/news/releases/taxiattack.htm> (last visited 23 April 2012). ⁸ *Hansard*, HC, 29 February 2012, vol 541, col 399. ⁹ See http://www.oxfordmail.co.uk/news/9361537.Taxi_CCTV_breaks__rights_to_privacy/ (last visited 23 April 2012).

Question 30: Should national conditions in respect of driver safety be different for taxi services compared with private hire services?

Answer 30: No in this area it is paramount to ensure the drivers working in the two separate industries are protected.

Provisional Proposal Reference 31: (Page 192)

THE APPROPRIATE SCOPE OF NATIONAL STANDARDS

15.22 We take the view that each of the three pillars of licensing under the current regime (drivers, vehicles, and operators) has a role in promoting safety. Under our provisional proposals the scope of standard setting powers granted to the Secretary of State and Welsh Ministers would only extend to conditions relating to the safety of taxi and private hire services.

Provisional proposal 31: The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should only cover conditions relating to safety

Answer 31: The Secretary of State and Welsh ministers should not have the power to change any legislation relating to Taxis and Private Hire Vehicles. Any changes to current and any future legislation should follow the current due process.

Provisional Proposal Reference 32 & 33: (Page 193)

How to determine national standards

15.2 *Very important substantive issues exist regarding what safety standards should be covered and their level.¹³ In respect of vehicles for example national standards might cover a broad range of conditions such as the permissible use of roof signs, signage, taxi-meters, CCTV cameras, tracking systems, driver shields tinted windows. Professional opinion and evidence can be divided as to how safety can best be promoted. Technological developments and changes in vehicles, including the specific considerations which may apply to novelty vehicles, present further challenges in ensuring regulation is workable.*

¹
5.24 *We consider the standard setting powers held by the Secretary of State and Welsh Ministers; as well as licensing authorities (in respect of local standard setting for taxis) to be sufficiently flexible to deal with these issues appropriately.*

15.25 *The debate on proper standards is critical. We will discuss some of the key areas of coverage as part of our discussion of the content of driver, vehicle and operator licensing in the next chapter for example. However, we do not consider the Law Commission as the appropriate forum for making such critical judgments. Our proposals relate to the parameters and procedures that may be used to appropriately set standards.*

¹⁰ See http://www.oxfordmail.co.uk/news/9625640.Brakes_put_on_city_taxi_CCTV_scheme/?ref=nt (last visited 23 April 2012).

¹¹ See *Southampton City Council v Kevin May*, unreported, 17 November 2011 and http://www.dailyecho.co.uk/news/9627511.Taxi_spy_cams_under_review/ (last visited 23 April 2012).

¹² For example pre-booked journeys might present fewer risks than hail and rank journeys because traceability leads to a better chance of accountability.

¹³ We discuss many of the problem areas in the body of our Consultation Paper

Provisional proposal 32: The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement.

Question 33: What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel?

Answer 32: It is paramount that any local authority should be able to set conditions over and above national standards providing they consult with all parties first.

Answer 33: Again this should be up to individual areas based on consultation and agreement from the local trades, stakeholders etc. If two or more areas decide to co-operate and pool their services then that should be allowed however this should be totally up to each authority. This fits in with the government policy of Localism

Provisional Proposal Reference 34: (Page 193)

ADDITIONAL LOCAL STANDARDS FOR TAXIS

15.26 *Local conditions would continue to apply but exclusively to taxis.¹⁴ Matters relating to quality and fares are key examples where local decision-making for taxis would be valuable. The London Conditions of Fitness, including the turning circle, are an eminent example.*

15.27 *There are divided views upon the extent to which imposing licensing conditions can be justified. As further discussed below such conditions may be regarded as overly restrictive. However, our provisional view is that licensing authorities should retain the discretion to impose such requirements, provided they do not fall below national standards, and subject to the constraints of general public law principles and judicial review.*

¹⁴ As discussed above, standard-setting would not, however, be a purely local matter. Our provisional proposals above for example introduce minimum safety standards so that local variation could only be above an agreed minimum level.

or type of taxi or private hire vehicle. There is also a specific power to set types, sizes and designs of vehicles, which can also be used in a way which differentiates between different localities. This could potentially provide a useful model for limiting the scope of licensing authorities' discretion to set local standards.

Provisional proposal 34: Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards.

Answer 34: Agreed but what happens with cross boarder hiring's where a standard is set above the minimum national standards with additional expense of livery etc and private hire vehicles from other areas are allowed to operate to a different standard? Local authorities should control their vehicle standards that they believe to be correct.

Provisional Proposal Reference 35: (Page 194)

15.28 In Chapter 7 we noted that the justifications for regulating quality features which are purely aesthetic are weaker than those relating to strict safety requirements and come at a potentially high cost to consumers. Local conditions which specify particular roof-sign dimensions or colours have proved controversial and caused anger in the trades for example. 15 A reformed system could limit licensing authorities' powers.

15.29 In Scotland, the Secretary of State and the Scottish Ministers have the power to make some conditions mandatory and, conversely, to prohibit conditions that are deemed undesirable. These powers can apply differently depending on the area or type of taxi or private hire vehicle. There is also a specific power to set types, sizes and designs of vehicles, which can also be used in a way which differentiates between different localities. This could potentially provide a useful model for limiting the scope of licensing authorities' discretion to set local standards.

Question 35: Should there be statutory limits to licensing authorities' ability to set local taxi standards?

Answer 35: Who is to decide what the limits are. Unless this can be defined then the question is pointless?

Question Reference 36: (Page 194)

The relationship between national and local taxi standards

15.30 Nationally set standards relating to safety would be the only form of regulation affecting private hire services. Taxis would instead be potentially subject to two distinct sets of standards: one national and the other local. The national standards may or may not be the same as those applicable to private hire vehicles. 18 Licensing authorities would not be obliged to introduce local condition but would have the option of introducing such requirements depending on their local needs. 19 Local standards could not, however, be any lower than the nationally set minimum standards relating to safety. Licence conditions of general application and individual conditions

15.31 Under current law licensing authorities can set conditions that apply to all licensees generally in their licensing area, as well as tailoring conditions specific to particular licensees. Currently this applies both to taxi and private hire services. We regard this flexibility as useful and this could be retained in respect of taxis as it is compatible with local licensing. However, the presumption should be that general conditions should be used, and individual conditions should be exceptional. The move to national standards for private hire vehicles would, by contrast, appear to be inconsistent with the ability to impose individual conditions. If a private hire vehicle or driver failed to satisfy the national requirements the licensing authority would have no option but to refuse the licence (rather than to grant the licence but subject to an individual condition).

The loss in flexibility might, however, be outweighed by the advantages of having more consistency and transparency.

Question 36: Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators?

Answer 36: Agreed Yes.... But....what is the point if cross boarder hiring is permitted?? One authority may impose a higher condition on its taxi and private hire drivers and operators than that of a neighbouring authority. This would make it attractive for drivers to pay for licensing in an area which sets lower conditions if cross boarder hiring is allowed!!

LICENSING AUTHORITIES WORKING TOGETHER

Administration and enforcement of taxi and private hire services

15.32 We have seen that some authorities, for example district councils within a county council area, have joined forces to develop an integrated regulatory services function with a single management structure.²⁰ This can reduce administrative and overhead costs, and provide some consistency of standards across the whole area. One of the benefits may be a joined up and targeted approach to enforcement, with costs reduced through economies of scale.

15.33 Such arrangements can be made informally. There are also statutory powers under which local authorities can arrange for certain functions to be discharged by other authorities.²¹

15.34 We see advantages in such arrangements in terms of pooling resources, costs and expertise across a wider area. Amalgamation on a county-wide basis may also make it simpler to effect proposals such as new taxi ranks which require the agreement of the local highway authority, as there would be closer alignment with the licensing authorities. We would like to explore ways of facilitating such arrangements where they make sense locally.

²⁰ For example, Worcestershire Regulatory Services, which is an integrated regulator services unit covering the seven councils which make up the county area and dealing with environmental health, licensing and trading standards. See also our discussion in Chapter 2 above.

Question 37: Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements?

Answer 37: The matter should be left to local arrangements.

Provisional Proposal Reference 38 (Page 196)

Cooperation in setting local taxi standards

15.35 Where licensing authorities may have combined resources in administering and enforcing taxi and private hire functions they may also wish to combine their remaining licensing activities relating to taxi standard-setting.²² The rapidly changing shape of local conurbations, for example with the creation of new towns and urban extensions in coming years, makes flexibility in the licensing framework even more important.²³

15.36 There are precedents for amalgamating local authorities in respect of particular functions and boundaries do not necessarily have to be the same for all functions of local authorities. The Local Transport Act 2008 introduced powers for the creation of new Integrated Transport Authorities and to change the constitutional arrangements in existing ones. Under such arrangements functions of the Secretary of State, or of the local authority, can be delegated to the Integrated Transport Authority. A key benefit of this system is that it provides an integrated approach to public transport across a larger conurbation. This facilitates a more coherent provision of public transport across a larger area than would be possible by individual councils. A new broader power is conferred on Integrated Transport Authorities by the Localism Act 2011.²⁴ The idea of combining local authorities for particular purposes was also a feature of the Local Democracy, Economic Development and Construction Act 2009.

²² As we noted there would be no outstanding local standard setting functions in respect of private hire vehicles.

²³ For example Cranbrook, Monkerton and Newtown near Exeter. See <http://www.exeterandeastdevon.gov.uk/Housing/> (last visited 23 April 2012).

²⁴ See Localism Act 2011, s11.

Provisional proposal 38: Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting.

Answer 38: This is confusing?? If this is a step towards 'zoning' then no.

Provisional Proposal Reference 39: (Page 196)

ZONING

15.37 In our review of the regulatory framework we considered the zoning arrangements in some local authority areas, and the powers which authorities have to amalgamate zones.²⁵ Whilst zones can be removed there is no power for an authority to reinstate zones once amalgamated or to create new zones.

15.38 The Department for Transport recommends the abolition of zones.²⁶ This is chiefly to bring benefits to passengers through greater availability of vehicles and more consumer choice. It also means that taxi drivers can ply for hire in a wider area, which may enable a more efficient way of operating, and could lead to administrative savings for local authorities. On the other hand where licensing authorities have proposed to remove existing zones drivers have raised concerns about potentially higher fares through the proposed introduction of blanket tariffs across a wider area.²⁷

15.39 We propose the introduction of more flexible powers enabling licensing authorities to respond more easily to local needs. Such powers could allow authorities to create licensing zones, or remove them, within their area. For example, in large metropolitan areas it may be advantageous to be able to follow the London model and create central and outer zones. Such an approach could assist in tackling concerns over the “honeypot” effect of city centres which may leave suburban areas with insufficient provision.

25 See Chapter 2.

26 See Department for Transport, *Taxi and Private Hire Vehicle Licensing: Best Practice Guidance* (March 2010), paras 89 – 91.

27 Proposals to amalgamate five zones in Shropshire were abandoned following protests by taxi drivers. See <http://www.shropshirestar.com/news/2011/06/17/shropshire-councilbacks-down-over-taxi-changes/> (last visited 23 April 2012).

Provisional proposal 39: Licensing authorities should have the option to create, or remove, taxi zones within their area.

Answer 39: Strongly disagree. The dangers of zoning are that it creates ‘Honey Pots’ to the detriment of serving other areas. This again should be set by local authorities if all stake holders agree.

Question Reference 40 (Page 197)

PEAK TIME LICENCES

15.40 In this review we considered different ways of addressing the problem of ensuring adequate provision of taxi services. Quantity restrictions, discussed in detail in Chapter 9, are a blunt instrument. Stakeholders have highlighted that this does not ensure vehicles are present where they are most needed.

15.41 The possibility of introducing peak-time taxi licences, which could only be used at specific times of day as determined by the local licensing authority, provide an attractive targeted option for ensuring provision at times of perceived unsatisfied demand. It can be regarded as a temporal version of geographical zoning.

15.42 Peak time licences are used in Victoria, Australia, where “green top” taxis can only work between 3pm and 7am, and 24 hours a day during specified events.²⁸ Such vehicles are clearly recognisable due to their green tops, and they considerably boost late night and early morning provision. This could have useful applications in England and Wales.

15.43 We note that New York is considering the more radical option of allowing private hire vehicles to act in a more taxi-like manner to address a lack of provision in suburban areas. The New York Taxi Licensing Commission is currently consulting on allowing private hire vehicles to respond to hailing but only outside Manhattan.²⁹

Question 40: Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority?

Answer 40: This is the most ridiculous question posed! How can the Law Commission expect the professional driver to survive?? A professional service is provided during the quiet times which are subsidised by the busier times. If the Law Commission brings in ‘peak time licenses’ it will then reduce the professional taxi trade to that of being part time. Additionally, how is the expected to be monitored without additional enforcement at extra cost? Absolutely no regulation should be enforced on any authority to adopt this.

41 to 73

Provisional Proposal Reference 41 (Page 198)

CROSS-BORDER HIRING

15.44 Our proposed changes to the regulatory framework address some of the underlying problems related to cross-border hire.

Enforcement

15.45 Under current law, licensing officers have no enforcement powers in respect of vehicles licensed outside their licensing area. In Chapter 19 we set out our provisional proposals to remove this restriction on licensing officers' powers. Licensing officers would, for example, be able to enforce against out-of-area taxis that may be illegally plying for hire within their licensing district. In addition, the move to a common set of safety standards means that licensing officers would have a shared set of standards they may apply to any vehicle, driver or operator.

Taxis

15.46 Under current law taxis may only ply for hire within their licensed area but may undertake pre-booked journeys anywhere in the country. We do not propose to change this. The scope for local variation in taxi standards, and in particular the different fares and accessibility standards that may apply, mean that they should be restricted to working on ranks and to hailing passengers located in their licensing area. On the other hand taxis would continue to be able to do pre booked work "out of borough" as they can under current law.

Private hire services

15.47 Under the current law operators are restricted to inviting and accepting bookings within their licensed area, and using vehicles and drivers licensed within the same licensing area. This is notwithstanding that private hire vehicles are free to pick up and drop off anywhere in the country. Taxi drivers undertaking prebooked journeys have no similar constraints whether taking the bookings directly or where a third party may invite or accept bookings on their behalf and thus act like an operator.

15.48 The move to a set of mandatory national standards would mean that although licences would be issued locally, by different licensing authorities, their requirements would be the same. Cross-border restrictions, and the so-called "triple licensing" requirement whereby the operator, driver and vehicle must all be licensed by the same licensing authority, would therefore fall away in respect of private hire services. This would further erode the significance of cross-border issues in respect of private hire vehicles.

Provisional proposal 41: Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority.

Answer 41: Private Hire Operators are currently perfectly able to accept any booking for any area and therefore the proposal is irrelevant and should not be considered.

Provisional Proposal Reference 42: (Page 199)

Rejection of a "return to area" requirement

15.49 We do not propose to adopt specific measures aimed to restrict cross-border activities of licensed private hire vehicles or taxis. We have considered the possible requirement that, upon dropping off passengers out of their licensing area, drivers should come under a duty to return to their licensing area within a reasonable time.

15.50 We regard the key problem with this option to be that it brings no consumer benefit whatsoever. On the contrary, introducing a return-to-area requirement would only lead to increased prices and reduced flexibility of provision. We consider that a return to area requirement is not justified as it is both inefficient and environmentally damaging. Both taxis and private hire vehicles could, after dropping off a passenger, legitimately pick up a different fare outside of their area pursuant to a pre-booking. Increasingly intelligent dispatch systems make the likelihood of matching up passengers with proximate vehicles a reality. If drivers were forced to drive back to their licensing area empty this would not only be expensive but also environmentally damaging as adding to dead mileage. Such a requirement would also be very difficult to enforce as a matter of evidence.³⁰

15.51 The danger that an out-of-area taxi, or a private hire vehicle, may illegally ply for hire is a problem which requires specific action through targeted enforcement. If a driver wants to illegally ply for hire they are unlikely to be deterred through such an equivocal additional requirement. Scarce enforcement resources are unlikely to be most effectively deployed in enforcing such requirements.

15.52 As also noted above the introduction of common safety requirements reduces the seriousness of the cross-border problem. If a licensed vehicle illegally plies for hire it may be competing unfairly and breaching various regulatory requirements but it does not present a safety risk. Minimum safety requirements that apply to both taxis and private hire vehicles mean that in certain key respects the vehicle is safe. The more serious safety problems relate to completely unlicensed vehicles. The cross-border issue in fact diverts potential resources from addressing this much more dangerous phenomenon.

³⁰ For example, it would be almost impossible to prove that a driver was failing to return to his or her licensing area, rather than simply taking a detour in order to, say, run an errand.

Provisional proposal 42: We do not propose to introduce a “return to area” requirement in respect of out of- area drop offs.

Answer 42: Our Union disagrees as the failure to do so will result in vehicles working anywhere and the enforcement provided by local authorities to ensure customer safety will be non-existent.

Provisional proposal Reference 43:. (Page 200)

FARE REGULATION

15.53 Price controls are a widely utilised solution to address market failures in the taxi rank and hail markets. Most licensing authorities regulate maximum fares determined in accordance with formulas to reflect the cost of running a taxi further to a consultation process.³¹

15.54 On the other hand, the private hire market does not require price intervention in light of normal competitive forces operating more effectively.³² This does not mean, however, that private hire fares are completely unregulated. General consumer protections still apply. For example where private hire vehicles have a meter (as can happen outside of London) it must comply with the Measuring Instruments Directive and trading standards’ controls to ensure consumers are not cheated.³³

15.55 We note that Sweden does not have fare regulation but instead imposes strict price information requirements that enable consumers to make an informed choice. Norway also has fare regulation only in some cities.³⁴ The freedom to set fares in accordance with local needs would, we suggest, be retained. On the other hand, nothing in our proposals would require a licensing authority to regulate fares and the choice would remain to have unregulated fares.

Provisional proposal 43: Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares.

Answer 43: Agreed

Question Reference 44: (Page 200)

Pre-booked taxi fares

15.56 Under current law, taxi fares for pre-booked journeys ending inside the licensing area are capped at what would have been the metered fare. There are reported cases of undercover licensing officers, posing as consumers, catching taxi drivers acting on a pre-booked basis charging more than the metered fare.³⁵ Out-of-area journeys can, however, be subject to a higher fare provided this is agreed.³⁶

15.57 Taxis compete directly with private hire vehicles in respect of the pre-booked market. Private hire vehicles therefore provide effective competitive pressure on taxis in respect of such journeys. The rationale for fare regulation of pre-booked taxi journeys is therefore less strong.

15.58 There are however particular advantages to regulating pre-booked taxi fares. Taxis can be booked without operators and under current law they are not required to keep records of pre-booked journeys (unlike private hire vehicles).³⁷ There may be little evidence to distinguish a pre-booked journey (and which may be unregulated) from one originating through hailing or a rank (which would continue to be regulated). Moreover, if a taxi demanded more than the metered fare it would be hard for the consumer to track down that taxi, whereas if an operator is involved it is easier for the consumer to complain.³⁸

15.59 On the other hand possible record-keeping requirements for pre-booked taxi journeys (as suggested in Question 53 below); and a presumption that the metered fare applies³⁹ could partly allay concerns regarding possible abuse and confusion were taxis allowed to deviate from metered fares.

³⁸ If a council chooses to regulate fares, as most do, the licensing conditions may require all taxi journeys to always have a running meter. The taxi driver can of course agree less in advance but at least the consumer could look at the meter. If the licensing conditions did not have such a requirement and a consumer felt they had been overcharged, then they could query the amount they paid for the journey with the licensing authority and the authority could follow that up.

Question 44: Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys?
(Page 200)

Answer 44: Agreed, providing there is an agreement between the taxi proprietor and the hirer.

REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING

Question Reference 45: (Page 203)

CHAPTER 16 REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING
INTRODUCTION

16.1 In this chapter we consider some of the central issues concerning driver, vehicle and operator licensing. We provisionally recommend the continuance of licensing for all three categories. However we recognise that operator licensing raises some different issues as operators do not come into direct contact with the public and we therefore expressly consider the justifications for continued licensing. We note at the outset that this chapter does not propose to cover all possible obligations and conduct-related offences relating to taxi and private hire services. Rather, we set out the main, but non-exhaustive, sets of obligations that might apply within a reformed system.

DRIVERS

16.2 Under the current law, licences can only be granted to drivers:

- (1) who are “fit and proper” persons;¹
- (2) have held a driver’s licence under the Road Traffic Act 1972 for at least one year (three years for private hire vehicle drivers in London);² and
- (3) subject to such conditions as the licensing authority may consider reasonably necessary (for private hire),³ or the requirements set out in byelaws regulating, among other things, the conduct of drivers and the hours within which they may exercise their calling (for taxis).⁴ These can cover aspects such as medical fitness for example.

16.3 All three elements can clearly promote passenger safety but can also go considerably further. We consider some of the key areas below.

DRIVER REQUIREMENTS

Fit and proper person

16.4 Whether a driver is a fit and proper person is a question of fact not defined in statute. We noted that under current law, criminal records and medical conditions lie at the heart of what it means to be a “fit and proper” driver. National standards in respect of such matters could assist in ensuring consistency and improved passenger safety.

Medical fitness

16.5 The more intense driving activity, and carrying a paying passenger who has no means of meaningfully assessing the health of the driver, means that extra medical requirements might justifiably apply to drivers.

Safety skills training

16.6 Driver competence can cover a broad range of skills. National standards would however be solely concerned with those skills having a direct impact on safety. For example, elements such as safely picking up and setting down passengers, and knowledge of the differences between what taxis and private hire vehicles are allowed to do, would be likely to feature in such a test. We expect such a test would be of considerably narrower remit than some current qualifications.

16.7 A particularly important aspect of driver skills training relates to disability awareness. This has direct safety implications, for example, where drivers do not know how to properly secure a wheelchair passenger. This encompasses practical skills, such as how to properly secure a wheelchair, as well as awareness of the wide range of disabilities passengers may have and the relevant Equality Act 2010 obligations. We will discuss the equality aspect of national training standards in more detail in Chapter 18 discussing provisional proposals related disabilities.

Insurance cover

16.8 The requirement for proper insurance cover for drivers would also appear to be a key safety requirement. We understand that it is often difficult for licensing authorities to monitor whether insurance payments have been kept up. Where insurance premiums lapse, insurance cover ceases.

16.9 The Secretary of State and Welsh Ministers’ powers to set conditions in respect of bottom-line safety requirements, considered in the previous chapter, could be wide enough to cover all the above issues to the extent

that they are clearly linked to the objective of promoting safety in taxi and private hire services. We recognise however that there may be benefits in including certain requirements in primary legislation

REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING

Question 45: Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions?

Answer 45: The current rules relating to this issue are adequate which enables all licensing authorities to vet a driver as listed below.

A check on the right to work in the UK

A CRB check upon initial licensing and then on a regular three yearly basis.

A DVLA Driver Standards hands on test.

Provisional Proposal Reference 46 (Page 204)

VEHICLES

16.10 Under current law, general vehicle requirements for both taxis and private hire vehicles leave much discretion for setting local standards, which can relate to design, appearance and any distinguishing marks.

16.11 In respect of taxis the London Conditions of Fitness are the most prominent example of locally-set conditions and they have also been adopted by other authorities outside of London.

16.12 Private hire vehicles must satisfy licensing authorities in respect of the following features:⁹

- (1) suitability of type, size and design for use as a private hire vehicle;
- (2) sufficient difference to taxis in order to avoid confusion;
- (3) suitable mechanical condition;
- (4) safety;
- (5) comfort; and
- (6) proper insurance cover.

16.13 We have suggested that the Secretary of State and Welsh Ministers would have the power to set national safety-related standards subject to a statutory consultation requirement.¹⁰

VEHICLE OWNER REQUIREMENTS

16.14 In England and Wales outside London, the owner of a licensed vehicle is not subject to any statutory suitability requirements. There is no express power to refuse a vehicle owner a licence for reasons related to the applicant, as opposed to the vehicle. In respect of taxis, licensing authorities can, however, issue byelaws “regulating the conduct of the proprietors ... “. They also have the power to suspend or revoke a taxi or private hire licence for any reasonable cause;¹ this may be broad enough to include reasons linked to the holder of the licence.

16.15 In London, vehicle owners must satisfy Transport for London that they are of good character, good business repute and, having regard to their financial position, are “fit and proper”.

16.16 Vehicle owners do not come into any contact with the public, either directly or indirectly, in their capacity as owners.¹ We therefore suggest that although vehicle owners would continue to hold the vehicle licence, the requirements imposed on the vehicle owners themselves are be too remote from passenger safety considerations and should be abandoned.

Provisional proposal 46: Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself.

Answer 46: Disagree. Vehicle owners should have as much responsibility to the public as the driver. There have been recent cases of taxi companies being used as money laundering and any vehicle owner deemed to be involved in criminal activity should be classes as “Not fit and proper”

Question Reference 47 (Page 205)

VEHICLE REQUIREMENTS

16.17 Under current law, licensing authorities can take into account a broad range of criteria (beyond safety considerations) in respect of licensing both taxis and private hire vehicles.

16.18 In the previous chapter we provisionally proposed that national standard setting would only extend to conditions related to vehicle safety. This would also cover features distinguishing taxis from private hire vehicles. the other hand considerations relating to broader quality considerations (such as colour requirements or features affecting comfort) could only be regulated locally, and then only in respect of taxis).

Vehicle testing

16.19 On the other hand, the mechanical condition of taxis and private hire vehicles is pre-eminently a safety issue. Such vehicles do a lot more mileage than regular cars and more frequent testing is therefore important. As with other technical standards, we expect that a technical panel could be appointed to determine such matters as the proposed frequency and modality of such testing.

Insurance cover

16.20 Appropriate hire and reward insurance cover for taxi and private hire vehicles would, we suggest, remain a key safety requirement.

Question 47: Should national vehicle safety standards be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions? (Page 205)

Answer 47: The current laws relating to this issue are adequate which enables all licensing authorities to adopt the highest standards and therefore no change in this legislation is needed.

Provisional proposal Reference 48: (Page 206)

ADDITIONAL LOCAL STANDARDS FOR TAXI VEHICLES AND DRIVERS

16.21 Under our provisional proposals local authorities would retain the flexibility to introduce enhanced requirements. We understand that retaining the discretion to introduce further quality controls could be important for many licensing authorities. Taxis are often the first point of contact for tourists coming to a new city and for visitors generally. Topographical knowledge, a modern and clean vehicle, or perhaps additional training in respect of customer service and tourist attractions may all be relevant. What is appropriate for one locality may be completely unsuitable somewhere else. Such decisions are of a quintessentially local nature and properly within licensing authorities' discretion to set local standards. We set out proposals and questions about the proper scope of local standards in the previous chapter.

OPERATORS

The role of operators

16.22 Drivers and vehicles come into direct contact with the public and therefore licensing requirements aimed at promoting safety are justified, although their extent may be debated.

16.23 Operators, on the other hand, have only indirect contact with the public through inviting or accepting bookings, yet operators play a central role in the current prebooked private hire market. In pre-booking situations, the passenger interfaces with the person inviting or accepting the booking. Reliance is placed on the operator rather than the driver, and typically passengers are unaware of the identity of the driver until the moment they are picked up. In private hire this is reinforced by the fact that the contract of hire is between the operator and passenger rather than with the driver.¹⁶

16.24 Operators control the provision of the pre-booked service through recording passenger and journey details, and selecting the relevant driver and vehicle. We also note that record-keeping is important in promoting safety through traceability of bookings. The capabilities of real-time tracking mean that record-keeping can play a preventative safety role, rather than being limited to after-the-fact considerations.

Justifications for operator licensing

16.25 Operators are uniquely placed to make sure that the drivers and vehicles are compliant with public safety objectives. The operator should periodically check whether drivers and vehicles continue to satisfy the relevant regulatory requirements. In practice operators are the first line of enforcement on vehicles and drivers: for example, if they are not compliant, the operator can refuse to pass on any further jobs.

16.26 In addition, economies of scale are significant because drivers can only transport one set of passengers at a time, while operators can be dealing with multiple bookings. Whereas drivers and vehicles are always moving, the operator's base can be stable. It is often easier for enforcement officers to target operators, who have responsibility for a number of drivers and vehicles, than to target individual license holders. The above factors make effective enforcement against operators more likely than enforcement against individual drivers and vehicles. The greater investment that is typically associated with setting up an operator's business means it is typically a less transient occupation than being a private hire driver. Operators' reliance on customer's goodwill for continued business means operators have a particularly strong vested interest in making sure regulatory requirements are complied with. This is a highly effective form of regulatory control.

16.27 In Scotland, operator licensing was not considered necessary when private hire car licensing was first introduced. However, in the following years there was a perceived increase in public safety and public order concerns, as well as criminal activity linked to booking offices.¹⁷ This led to the introduction of operator licensing in 2009.

16.28 Operators are such an important pillar of the private hire trade that it is difficult to predict what the consequences of removing operator licensing would be. The day to day control of licensing requirements in respect of vehicles and drivers in the private hire trades falls to operators. The more light touch regulation which applies to private hire drivers and vehicles, even under our reformed system, only emphasises the benefits of a more stable and centralised party holding longer term accountability.

16.29 While accepting there are arguments on both sides, we consider that those in favour of retaining operator licensing are more powerful.

Provisional proposal 48: Operator licensing should be retained as mandatory in respect of private hire vehicles.

Answer 48: Agreed as the overall responsibility is with the operator in providing safe and suitable vehicles.

Question Reference 49: *(Page 208)*

Possible extensions of operator licensing

16.30 If operators continue to be licensed there are three main ways this could be applied:

- (1) to retain operators only in respect of private hire vehicles;
- (2) to extend the operator licence requirement to taxis in respect of all prebooked work; or
- (3) to continue to allow taxis to take pre-booked journeys directly but provide that if they go through a third party, such third party must be licensed as an operator.

16.31 The first option reflects the current law and we are not aware it has caused problems. The second option would significantly limit what taxi drivers can do as they would no-longer be allowed to take pre-bookings directly. This would be very restrictive. Scotland has adopted this approach, whereby both taxi and private hire booking offices require a licence, but only where they have three or more vehicles.¹⁹ The third option would not limit what taxi drivers could do independently but it could add extra regulatory requirements where third parties were involved in the booking process. We explore some of the implications below.

Licensing taxi radio circuits

16.32 Unlike private hire drivers, taxi drivers can take pre-bookings directly. Third parties taking bookings on behalf of a taxi driver have no formal role in legislation although it may appear that taxi radio circuits, dispatching solely taxis, carry out a very similar function to operators.

16.33 From the consumer's point of view the function of a taxi dispatcher may be indistinguishable from that of a private hire operator. The consumer may request a vehicle and the dispatcher may provide details of the vehicle and driver that will be sent as well as an estimated arrival time. Operators working with mixed fleets of taxis and private

hire vehicles have different legal exposure in respect of dispatched private hire vehicles compared with taxis although both are carrying out a purely pre-booked function. Such differences may be perceived to be arbitrary.

16.34 On the other hand there may be sound legal reasons why taxis might not need to be dispatched through a licensed operator. As already noted above, taxi drivers are able to accept pre-bookings directly. This means that a third party who arranges a pre-booking can, in principle, act merely as an agent and take no direct responsibility in respect of the booking.

16.35 The pre-booking contract may be with the taxi driver. By contrast a private hire driver lacks the legal capacity to enter a pre-booked contract because the legal obligations to the customer are required to reside with operator.

16.36 If all third parties who invited bookings for taxis had to be licensed that would effectively ban agency arrangements. The third party would, by statute, have to take substantial legal responsibilities in respect of the taxi service provided. Such a blanket approach may not be desirable. In some cases customers may expect to have direct recourse to the third party (for example a corporate client having an account with the radio taxi circuit). In such cases it may make sense for the third party to be directly responsible for the fleets' compliance. However in other cases this may not be the case; for example, where a consumer uses a smartphone app to find a taxi in a one-off transaction. In that respect the current position, whereby a radio taxi circuit does not require a separate licence, is more flexible and may better reflect the range of customer expectations.

Question 49: Should operator licensing be extended to cover taxi radio circuits and if so on what basis?

Answer 49: In the interests of public safety operator licenses for taxi radio circuits should be introduced in line with private hire operator licenses.

Provisional proposal 50: (Page 209)

Intermediaries

16.3 Sometimes customers might not contact an operator directly but instead engage the services of an intermediary transport services company.²¹ An intermediary may be asked to organise all aspects of an event or have a long-standing contract with a corporate customer for example. Events like Wimbledon, London fashion week or the Chelsea flower show might typically organise their transport through intermediaries. The intermediary may in turn contact an operator to dispatch private hire vehicles or taxis. In such cases the initial customer (the event organiser) does not rely on the operator in any meaningful sense but rather on the intermediary.

16.38 Given the overlap in function between intermediaries and operators the question is whether the definition of operators should be extended to cover such services. Intermediaries can, and sometimes do, have operator licences. We suggest it is not necessary to extend the definition of operators so as to cover indirect provision or acceptance of bookings. Customers who choose to use the services of an intermediary can protect themselves through contractual arrangements. The operator that would be ultimately engaged would remain liable and subject to regulation. There would be little added benefit, but only more red tape, in requiring a licence for intermediaries who engaged licensed operators. If licensing applied to any person who made arrangements related to the provision of vehicles for hire, we would have a potentially infinite and repetitive licensing requirement.

16.39 In addition, we note that the definition of "operator" is already extremely broad. It covers any person who invites or accepts bookings for a private hire vehicle. Where intermediaries directly provide vehicles and by-pass licensed operators, they are already committing an offence under current law through acting as operators without holding an appropriate licence.²² The question would appear to be one of enforcement rather than a need to extend the law. Overall it appears that the current definition of operators is appropriate.

Provisional proposal 50: The definition of operators should not be extended in order to include intermediaries. (Page 209)

Answer 50: Disagreed

Question Reference 51: (Page 209)

NATIONAL OPERATOR STANDARDS

16.40 Under the current law, licences can only be granted to operators if they are "fit and proper" persons and subject to such conditions that a licensing authority may deem "reasonably necessary".²³ These requirements do appear to promote the primary safety rationales for licensing operators that we identified at the outset.

16.41 Operators are directly liable for breaches by their drivers and vehicles. Recordkeeping and the threat of removal of licence for lack of compliance by the operator or any member of their fleet are key advantages of operator licensing which may significantly enhance passenger safety. This suggests that the emphasis should be in respect of monitoring performance, ensuring that adequate records and information are provided as necessary to licensing officers. Insurance cover should also be a priority.

16.42 On the other hand, stakeholders have noted the importance of ensuring that only reputable operators are licensed. Initial checks on operators can also have significant intelligence-gathering functions useful to the police. This can be important because we understand that private hire operations are especially at risk of being used as a front for organised crime.²⁵ These concerns suggest that the “fit and proper” requirement for operators should be retained.

Question 51: Should “fit and proper” criteria in respect of operators be retained? :

Answer 51: Strongly Agreed.

Provisional proposal Reference 52: (Page 210)

SUB-CONTRACTING

16.43 Where a customer contacts an operator who is unable to fulfil their proposed booking the operator might wish to sub-contract the job to another operator. This can benefit the customer because their service need is fulfilled efficiently, and it benefits the operator as they may also make some profit through arranging the transaction, as well as retaining the goodwill of the consumer. This can happen at the outset, when the original booking is made, but it can also happen unexpectedly, as when a vehicle might break down and the operator may not have any replacement readily available.

16.44 Under current law, it is illegal to sub-contract bookings elsewhere in England and Wales, whereas it is expressly permitted in London. In such cases, the original operator remains liable to the customer. We understand the London provisions have worked well and suggest this approach should be adopted nationally. Under this system, the original operator would remain liable to the passenger, in addition to any liability which the sub-contractor may have incurred directly to the passenger.

Provisional proposal 52: Operators should be expressly permitted to sub-contract services.

Answer 52: Agreed as per the current regulations within England and Wales whereby operators can only hand work to operators within their own licensing authority to ensure customer safety.

Question Reference 53: (Page 210)

RECORD-KEEPING REQUIREMENTS FOR PRE-BOOKED TAXI JOURNEYS

16.45 We do not suggest that taxi drivers should be required to obtain an operator licence in order to take pre-bookings. However a requirement to keep records of pre-booked journeys might be reasonable, particularly if fare regulation did not apply to such journeys (as we ask in question 44 above).

Question 53: Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply?

Answer 53: Disagreed. When a hackney carriage driver is operating on a mixture of hail and ride/ranking/pre-booked system it is unacceptable to expect the driver to constantly be recording fares.

Chapter 17 REFORMING QUANTITY CONTROLS

Provisional proposal Reference 54: (Page 213)

17.1 Under current law licensing authorities have the option of limiting taxi numbers, but only in the absence of “unmet demand”. Our provisional reform proposals therefore consider two main questions:

- (1) whether quantity restrictions should be abolished; and
- (2) whether there should be any transitional arrangements.

THE ECONOMICS OF QUANTITY CONTROLS

17.2 Quantity controls are a direct barrier to entry into a market and have the main purpose of limiting the number of sellers that can compete within the market. A direct result of the quota is that sellers within the market have less competition for customers than would otherwise be the case.¹ As a consequence customers have a more restricted range of choice and existing licence holders have a monopoly on fares.

17.3 Quantity controls introduce a further market, as there is a market for taxi licences as well as for taxi journeys. The market for licences reflects the earnings that accrue from having the valuable right to ply for hire in a restricted area and attracts a premium value. Stakeholders have identified premium values of up to £60,000 for licences in the York area.

17.4 Historically quantity controls were a key driver in the regulation of taxis. The Transport Act 1985 considerably curtailed licensing authorities’ ability to control numbers: quantity controls could only be introduced where licensing authorities were satisfied there was no “unmet demand”. Following the Office of Fair Trading’s 2003 report² the Department for Transport issued clear guidance asking local authorities to consider whether quantity controls are indeed necessary. A provision, as yet unimplemented, of the Equality Act 2010 would further restrain licensing authorities’ scope to limit numbers, preventing the issue of a licence to a wheelchair accessible taxi.³

17.5 At the end of February 2012 an estimated 93 licensing authorities had quantity controls in place restricting the number of licensed taxis. About 21,000 vehicles are currently operating in areas with quantity controls, accounting for just over one-quarter of all taxis operating in England and Wales.⁴

1 The assumption being that there are other sellers who wish to enter the market, otherwise there would be no need for quantity restrictions.

2 Office of Fair Trading, *The regulation of licensed taxi and private hire vehicle services in the UK* (November 2003).

3 Equality Act 2010, s 161.

4 Based on statistical evidence received from the National Private Hire Association.

17.6 We recognise that the decision to restrict numbers has a direct impact on the livelihood of the taxi trade. As quotas provide for a protected income this makes quantity controls particularly susceptible to political considerations that bear no relationship to resolving a problem caused by market failure. This can lead to licensing authorities being accused of “regulatory capture”. This term describes the situation where regulatory decision-making has been disproportionately influenced by the relationship between regulator and regulatee.⁵

17.7 The main advantage of de-regulating taxi numbers is the opportunity for improved provision. It is almost always the case that the removal of quantity controls leads to an increase in taxi numbers.⁶ We understand that having more taxis does not guarantee more taxis when and where they are needed, but it is a step in the right direction. There is the further potential benefit for would-be taxi drivers who are currently denied access to the industry. The extent to which increased taxi numbers leads to long-term decline in taxi revenue is unclear.

17.8 Lack of provision can push passengers to take unlicensed vehicles. Removing quantity controls and increasing the number of legal taxis can therefore reduce the scope for illegal activities. This reduces the risks to passengers and can ease the burden on enforcement.

PROBLEMS WITH “UNMET DEMAND”

17.9 The statutory concept of unmet demand, which determines whether licensing authorities can impose quantity restrictions, raises various problems. Licensing authorities almost invariably commission unmet needs surveys, usually from independent consultants, to establish whether the pre-condition of the absence of unmet need is satisfied. The extent to which the survey provides an accurate depiction of demand conditions has been criticised. In particular there is concern about an insufficient acknowledgement of latent demand, that is, hidden demand that typifies users’ decisions to not use ranks because of lengthy waiting times. Moreover the focus on rank-based demand ignores demand at the street level, potentially further underestimating the true value.⁷

17.10 The practice of commissioning periodic unmet demand surveys is also open to criticism. Survey costs can be quite expensive – as high as £40,000.⁸ There is the further difficulty of how the survey should be funded.⁹

17.11 More fundamentally, it appears conceptually flawed that unmet demand, which is itself a market-based concept, should be used by regulators to control numbers. The market ought to automatically adjust to unmet demand through increased supply. Interposing regulation, as an imperfect proxy to the response which the market would provide to meet an unmet demand, appears both inefficient and subject to error.

5 S Barrett, "Regulatory Capture, Property Rights and Taxi Deregulation – a case study", in OECD, *(De)regulation of the taxi industry – round table 133* (2007), p 133.

6 See generally OECD, *(De)regulation of the taxi industry – round table 133* (2007).

7 See Office of Fair Trading, *The regulation of licensed taxi and private hire vehicle services in the UK* (November 2003).

8 See, for example, Coventry City Council, Report: Cabinet Member, City Services, <http://cmis.coventry.gov.uk/CMISWebPublic/Binary.ashx?Document=18303> (last visited 23 April 2012).

9 Increasingly licensing authorities are funding the cost of the survey through higher license fees.

CONGESTION AND OTHER EXTERNALITIES

17.12 The main arguments in favour of retaining quantity controls relate to the detrimental impact of negative externalities, such as congestion and environmental pollution, which can result from having an excessive number of taxis on the road. Rank spaces are limited. If all taxis sought to work at ranks at the same time problems of over-ranking would quickly arise, and indeed already do in many places. On the other hand, the experience of licensing authorities which have removed quantity restrictions and subsequently reintroduced them – at considerable expense – suggests they are considered valuable by certain licensing authorities.¹⁰

17.13 Taxi representative groups have also highlighted the potential benefits to the public through restricting numbers which flow from a more stable and better paid taxi trade. However, these could also be achieved through regulation targeted at ensuring suitable quality standards. Moreover, any perceived improvement in quality comes at a cost and consumers pay correspondingly higher fares. This may be appropriate but these issues need to be addressed transparently rather than through the opaque lens of quantity controls.

17.14 We recognise that arguments in respect of the impact of quantity controls are complex and that further evidence is required in order to properly assess how quantity controls affect externalities. However at this stage of the review we suggest that arguments in favour of deregulation, and for the abolition of quantity controls, are most convincing.

Provisional proposal Reference 54: (Page 213)

TRANSITIONAL ISSUES

The long-term dangers of removing quantity controls

17.15 We are aware of the potential long-term dangers associated with removing quantity restrictions. In Chapter 9 we considered three jurisdictions that had negative experiences in the removal of quantity restrictions and some of the factors that may have caused this to be the case.

17.16 For example there is concern that removal of quantity restrictions may drive out higher skilled drivers as the sudden influx of drivers may force down standards and render it impossible to make a sustainable living. Even if the new entrants eventually leave the market, the mix of licensees left at the end may well be lower than the standards which existed before. This could take years to redress and standards may never be what they used to be.

17.17 There is also the associated danger that the reputation of the trade may be damaged by new entrants to the market who do not match up to desired standards. Again such reputational damage can be very difficult to repair and consumers may be unwilling to trust taxis. This could damage the law-abiding taxi (and even private hire) drivers and drive them out of business. However, the imposition of minimum standards, and the ability of local authorities to impose additional standards relating to, for example, the quality of the service provided, can mitigate this.

Hardship to existing taxi drivers

17.18 Following the removal of quantity controls, the premium value of licences is effectively removed. The issue then arises as to whether compensation should be paid, and if so, what determines the value of such compensation. We recognise that any change in the law in this regard would have a significant impact on those members of the taxi trade who may have invested considerable sums in their taxi licence and relied on it, for example, as a retirement fund.

17.19 As a matter of law the owners of taxi vehicle licences have no clear legal rights to compensation in respect of the loss of plate value that would be associated with the removal of quantity restrictions. As quantity restrictions are already subject to potential removal, the value of the plates should already reflect the risk that numerical restrictions might be lifted. Licensing authorities that have removed quantity restrictions so far have not paid any compensation to licence holders and it would be difficult to introduce any such system at this stage.

17.20 In other countries the issue has been approached in various ways. In the Netherlands taxi licence holders were offered an extra tax reduction. However this was not valued by taxi drivers who saw the premium as a retirement fund. In Australia, compensation was based on the highest licence sale price. In Ireland a hardship panel was established to pay compensation where taxi licence holders could demonstrate extreme financial hardship on the basis of certain criteria. Generally the Organisation for Economic Co-operation and Development argues against paying compensation. In New York, on the other hand, a compensation scheme was set up in different circumstances. Here private hire vehicles were given a monopoly on telephone bookings, but to compensate taxi drivers who stood to lose out, taxi licence numbers were frozen for a number of years, in order to raise and protect their value

Managing the transition

17.21 The above factors suggest that any changes which may de-stabilise the market need to be carefully managed. Where the risks relate to a feared reduction in standards these dangers can be partly averted by ensuring that any new entrants are required to provide services of an appropriate standard. London is an obvious example where stringent quality controls mean that although quantity restrictions are not in place, entry to the taxi trade is carefully managed. However, the pressures on enforcement can mean that it may be difficult to ensure that quality standards are respected in practice if numbers were to spike significantly over a very short period of time. This suggests that in any event a managed transition, with gradual entry over a scheduled period of time is most likely to lead to better outcomes.

Provisional proposal 54: Licensing authorities should no longer have the power to restrict taxi numbers.

Answer 54: Our Union strongly disagrees with this free market ideology. The Taxi industry needs stability to enable it to provide a safe professional service. Unlike other services such as shops our industry is heavily controlled by Government with conditions imposed to ensure safety for the customer. The driver needs to work in an economic climate that allows the drivers to earn an income which allows for very high standards of maintenance and a working week that does not consist of 70 to 80 hours. Therefore to ensure customer safety local authorities must be allowed to restrict the number of taxi numbers in a controlled economy if they so choose.

Further considerations are the ecological problems that would follow a great shift from Private Hire to Hackney Carriage on the streets of England and Wales. In the City of Brighton & Hove the local authority is already facing heavy fines for its poor air quality, what impact would a further 100 or Hackney carriages have on the city centre taxi ranks?

This proposal does not agree with the government policy of localism. It also takes away a local authorities control of what they consider best, and imposes a central government one size fits all mentality on local councils.

The concept of more taxis means cheaper fares is a fallacy, it has been proven that local authorities that limit the number of taxis are more often cheaper in their fares than those that do not.

Question Reference 55: (Page 213)

CHAPTER 18 TAXI AND PRIVATE HIRE REFORM AND EQUALITY INTRODUCTION

18.1 In this part we set out our provisional proposals to improve accessibility to taxi and private hire vehicle services for disabled passengers.

18.2 Ensuring proper accessibility is a priority of this review. As we discussed in Chapter 11, many disabled people and people with reduced mobility rely on taxis and private hire vehicles for their everyday transport needs. Whilst notable improvements have been made in the last twenty years, improvements can still be made.

A SPECIFIC WHEELCHAIR LICENCE

18.3 Some local authorities adopt a policy which requires all licensed taxis to be wheelchair accessible. This means that a person in a wheelchair wishing to hail a taxi in the street or hire a vehicle at a rank, rather than pre-book, is guaranteed an accessible vehicle. Conversely, as we have seen, such vehicles may not be suitable for all passengers.¹ The requirement also imposes additional costs on the owner of the vehicle.

18.4 We have considered whether our proposed national standards for taxis and private hire vehicles should include a requirement for quotas of vehicles to be wheelchair accessible. On balance, we provisionally reject such a course. We explain our thinking in more detail below.

18.5 We have considered whether a specific, accessible taxi licence could be required to be made available by licensing authorities. Holders of such licences would be under an obligation to prioritise bookings from passengers in a wheelchair. There could be specially designated ranks for accessible taxi licence holders, and licensing authorities would be required to incentivise these. Licensing fees for accessible vehicles could, for example, be lower. We discuss this further below. We note that specifications beyond wheelchair accessibility, to accommodate different disabilities, could also be issued in this category.

Question 55: What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers?

Answer 55: Our Union strongly disagrees with this free market ideology. The Taxi industry needs stability to enable it to provide a safe professional service. Unlike other services such as shops our industry is heavily controlled by Government with conditions imposed to ensure safety for the customer. The driver needs to work in an economic climate that allows the drivers to earn an income which allows for very high standards of maintenance and a working week that does not consist of 70 to 80 hours. Therefore to ensure customer safety local authorities must be allowed to restrict the number of taxi numbers in a controlled economy if they so choose.

Further considerations are the ecological problems that would follow a great shift from Private Hire to Hackney Carriage on the streets of England and Wales. In the City of Brighton & Hove the local authority is already facing heavy fines for its poor air quality, what impact would a further 100 or Hackney carriages have on the city centre taxi ranks?

This proposal does not agree with the government policy of localism. It also takes away a local authorities control of what they consider best, and imposes a central government one size fits all mentality on local councils.

The concept of more taxis means cheaper fares is a fallacy, it has been proven that local authorities that limit the number of taxis are more often cheaper in their fares than those that do not.

Question Reference 56: (Page 215)

TRANSITIONAL ISSUES

The long-term dangers of removing quantity controls

17.15 We are aware of the potential long-term dangers associated with removing quantity restrictions. In Chapter 9 we considered three jurisdictions that had negative experiences in the removal of quantity restrictions and some of the factors that may have caused this to be the case.¹¹

17.16 For example there is concern that removal of quantity restrictions may drive out higher skilled drivers as the sudden influx of drivers may force down standards and render it impossible to make a sustainable living. Even if the new entrants

eventually leave the market, the mix of licensees left at the end may well be lower than the standards which existed before. This could take years to redress and standards may never be what they used to be.

17.17 There is also the associated danger that the reputation of the trade may be damaged by new entrants to the market who do not match up to desired standards. Again such reputational damage can be very difficult to repair and consumers may be unwilling to trust taxis. This could damage the law-abiding taxi (and even private hire) drivers and drive them out of business. However, the imposition of minimum standards, and the ability of local authorities to impose additional standards relating to, for example, the quality of the service provided, can mitigate this.

Hardship to existing taxi drivers

17.18 Following the removal of quantity controls, the premium value of licences is effectively removed. The issue then arises as to whether compensation should be paid, and if so, what determines the value of such compensation. We recognise that any change in the law in this regard would have a significant impact on those members of the taxi trade who may have invested considerable sums in their taxi licence and relied on it, for example, as a retirement fund.

17.19 As a matter of law the owners of taxi vehicle licences have no clear legal rights to compensation in respect of the loss of plate value that would be associated with the removal of quantity restrictions. As quantity restrictions are already subject to potential removal, the value of the plates should already reflect the risk that numerical restrictions

might be lifted. Licensing authorities that have removed quantity restrictions so far have not paid any compensation to licence holders and it would be difficult to introduce any such system at this stage.

17.20 In other countries the issue has been approached in various ways. In the Netherlands taxi licence holders were offered an extra tax reduction. However this was not valued by taxi drivers who saw the premium as a retirement fund. In

Australia, compensation was based on the highest licence sale price. In Ireland a hardship panel was established to pay compensation where taxi licence holders could demonstrate extreme financial hardship on the basis of certain criteria.¹²

Generally the Organisation for Economic Co-operation and Development argues against paying compensation. In New York, on the other hand, a compensation scheme was set up in different circumstances. Here private hire vehicles were

given a monopoly on telephone bookings, but to compensate taxi drivers who stood to lose out, taxi licence numbers were frozen for a number of years, in order to raise and protect their value.¹³

12 Barrett notes that the Taxi Hardship Panel recommended paying a total of 12.6 million euros in compensation: S Barrett "Regulatory capture, property rights and taxi deregulation – a case study" OECD, (De)regulation of the taxi industry, Round table 133, (2007) p 145.

13 R Darbera, "Taxicab regulation and the evolution of communication technology: the tale of three cities" (2005) p 4.

Managing the transition

17.21 The above factors suggest that any changes which may de-stabilise the market need to be carefully managed. Where the risks relate to a feared reduction in standards these dangers can be partly averted by ensuring that any new entrants are required to provide services of an appropriate standard. London is an obvious example where stringent quality controls mean that although quantity restrictions are not in place, entry to the taxi trade is carefully managed.

However, the pressures on enforcement can mean that it may be difficult to ensure that quality standards are respected in practice if numbers were to spike significantly over a very short period of time. This suggests that in any event a managed transition, with gradual entry over a scheduled period of time is most likely to lead to better outcomes.

Question 56: Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed?

Answer 56: Quantity restrictions should not be removed as per above questions.

Chapter 18: TAXI AND PRIVATE HIRE REFORM AND EQUALITY

Question Reference 57: (Page 217)

INTRODUCTION

18.1 In this part we set out our provisional proposals to improve accessibility to taxi and private hire vehicle services for disabled passengers.

18.2 Ensuring proper accessibility is a priority of this review. As we discussed in Chapter 11, many disabled people and people with reduced mobility rely on taxis and private hire vehicles for their everyday transport needs. Whilst notable improvements have been made in the last twenty years, improvements can still be made.

A SPECIFIC WHEELCHAIR LICENCE

18.3 Some local authorities adopt a policy which requires all licensed taxis to be wheelchair accessible. This means that a person in a wheelchair wishing to hail a taxi in the street or hire a vehicle at a rank, rather than pre-book, is guaranteed an accessible vehicle. Conversely, as we have seen, such vehicles may not be suitable for all passengers.¹ The requirement also imposes additional costs on the owner of the vehicle.

18.4 We have considered whether our proposed national standards for taxis and private hire vehicles should include a requirement for quotas of vehicles to be wheelchair accessible. On balance, we provisionally reject such a course. We explain our thinking in more detail below.

18.5 We have considered whether a specific, accessible taxi licence could be required to be made available by licensing authorities. Holders of such licences would be under an obligation to prioritise bookings from passengers in a wheelchair.² There could be specially designated ranks for accessible taxi licence holders, and licensing authorities would be required to incentivise these. Licensing fees for accessible vehicles could, for example, be lower. We discuss this further below. We note that specifications beyond wheelchair accessibility, to accommodate different disabilities, could also be issued in this category

1 Although we note that whereas wheelchair users have no choice but to travel in a wheelchair accessible vehicle, persons with other disabilities may nonetheless travel in a less-than-ideal vehicle.

2 There is a system similar to this in Victoria, Australia, which is a requirement of the taxi accreditation scheme. See

http://www.transport.vic.gov.au/__data/assets/pdf_

Question 57: Should there be a separate licence category for wheelchair accessible vehicles?

This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles.

Answer 57: Disagreed

Question Reference 58: *(Page 217)*

INCENTIVES

18.6 We have considered whether it would be appropriate to introduce incentives encouraging the use of accessible taxi and private hire vehicles. In Ireland the licence fee for a taxi which is wheelchair accessible is considerably cheaper than that for other types of vehicle.³ An incentive such as this may help to offset the additional cost of purchasing a wheelchair accessible vehicle, and encourage more providers to consider using such a vehicle.

18.7 Given our inclination towards having a range of vehicles which meet different needs, one option might be to introduce a range of fees relating to vehicles which satisfy different accessibility standards. This would mean that any vehicle which satisfied particular standards would benefit from a lower licence fee. Greater discounts could be available for the more specialised vehicles, or those including bespoke adjustments.

18.8 We have seen the effect of market forces in the private hire industry, which can incentivise providers to explore innovative ways of supplying a particular need. This can benefit both those who wish to travel and those who provide the services. The presence of greater consumer choice for users of private hire vehicles makes it easier and more effective to encourage innovation. Offering financial incentives through reductions in fees may be an alternative way of providing suitable incentives for that side of the industry. We are interested in hearing views on this, and any other suggestions.

Question 58: Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? *(Page 217)*

Answer 58: Disagreed

Question Reference 59 & 60 : *(Page 217)*

Quotas

18.9 We have considered whether to recommend setting quotas for the number of wheelchair accessible vehicles in any fleet (perhaps including private hire vehicles), and this is a solution advocated by a number of users. This could be a more flexible tool than a requirement for all vehicles to be wheelchair accessible, covering a varied range of different designs.

18.10 However, we recognise that there could be significant practical difficulties with such a requirement, in particular given the fluidity of the trade and the fact that many drivers and vehicle owners are sole traders. This makes it difficult to impose a wheelchair accessibility requirement on one driver as opposed to another.

18.11 We also recognise that quotas may not be of assistance to many disabled people in a wheelchair because the availability of a suitable vehicle at the time and in the place they wanted to travel could not be guaranteed.⁴ We therefore do not recommend that national standards should include fixed quotas for accessible vehicles.

Question 59: Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? (Page 217)

Answer 59: The government should encourage wheelchair accessible vehicles to be used as taxis by removing the VAT on such vehicles

Provisional proposal 60: We do not propose to introduce national quotas of wheelchair accessible vehicles. (Page 218)

Answer 60: Strongly agreed

Provisional proposal Reference 61: (Page 219)

ACCESSIBILITY TRAINING

18.12 Although provisions in the Equality Act 2010 prohibit discrimination in the provision of goods and services, there continue to be reports of problems for people with disabilities with taxi and private hire services. In Chapter 11 we consider equality issues. Many disabled people, in particular those using a wheelchair or people with assistance dogs, have either been refused service or have been unfairly discriminated against in the provision of the service. Whilst we know that many taxi and private hire vehicle providers give an exemplary service, we are of the view that more needs to be done to eradicate illegal and unacceptable practices.

18.13 We therefore propose the introduction of a national standard requiring all taxi and private hire vehicle drivers to complete a recognised accessibility training course as a condition of holding a licence.

18.14 Discriminatory practices frequently arise from lack of knowledge rather than a wish to discriminate. Drivers may not be sure how to help someone with reduced mobility, or a person in a wheelchair, to access their vehicle. They may not know how best to communicate with someone with learning difficulties, or someone with a hearing impediment. And they may be concerned that carrying a disabled person in a wheelchair will lead to a reduction in earnings because it may take longer for that person to get in and out of the vehicle.

18.15 There is also a safety aspect. Assisting a disabled person may require particular skills in lifting or supporting that person to ensure that both the driver and the passenger avoid injury. Drivers need to know how to secure wheelchairs properly in the vehicle. There is also the need to ensure that disabled passengers can travel comfortably and with dignity. Training should be able to assist with all of these skills. Some local authorities have already introduced a mandatory requirement for licensed drivers to attend an appropriate course. Appropriate training could increase awareness of the needs of disabled people and help reduce instances of drivers failing to stop or refusing to accept a booking from a disabled person, and other discriminatory practices.

Provisional proposal 61: National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training.

Answer 61: Agreed but not at the expense of the driver.

Provisional proposal Reference 62: (Page 219)

LOCAL AUTHORITY RESPONSIBILITIES

18.16 We also believe more needs to be done to enforce the spirit of the Equality Act 2010. Despite the fact that it is unlawful to discriminate against a disabled person in the provision of goods and services, stakeholders have told us such discriminatory practices are not rare. The Equality and Human Rights Commission is the regulator and has a range of enforcement powers. The regulator will consider complaints and seek in the first instance to work with organisations to ensure compliance with legal requirements.⁷ In the most serious cases the Commission can seek an injunction to prevent illegal practices, or intervene in an action for judicial review.

18.17 In our view more can also be done at a local level to ensure that discriminatory practices are not condoned. Licensing authorities should take appropriate action against license holders who participate in discriminatory practices.

Provisional proposal 62: In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. (Page 219)

Answer 63: This is where the Law Commission seems to lack understanding of the trade. In most cases such contact details are provided on the tariff card.

Question Reference 63: (Page 220)

TAXIS AND DISCRIMINATION

18.18 Legislation already prohibits discrimination against disabled persons⁹ in the provision of goods and services, including services provided in taxis and private hire vehicles.¹⁰ This includes a requirement to make reasonable adjustments in the provision of the service, including the provision of auxiliary aids. We are aware of incidences of drivers avoiding taking disabled passengers by claiming to not have ramps. The law provides for assistance dogs to be carried at no extra charge, although we are aware that this is not always followed. The public sector equality duty also applies to local authorities in the carrying out of their functions.

18.19 Notwithstanding such general protections we are aware of concerns about taxis refusing to take disabled passengers, particularly those who use wheelchairs. It can be clear whether a taxi at a rank is illegally refusing to take a disabled passenger given the clear conventions involved. The position in respect of hailing is, however, not so simple. Taxis are not under a general duty to stop when hailed and our proposals would not seek to change this. On the other hand disabled passengers have frequently reported being ignored when hailing.

18.20 To help discourage discrimination it could be good practice for licensing authorities to require taxis to display their availability for hire by some obvious means to the public. This in turn could be coupled with a requirement to stop in response to a hailing if it is free and safe to do so. Although hard to enforce, such a requirement could at least provide some safeguards for disabled users.

Question 63: What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? (Page 220)

Answer 63: No taxi should be 'obliged' to stop while the vehicle is in motion. However, compellability should be enforced at taxi ranks / train station ranks as per current disability bill contents.

REFORMING ENFORCEMENT

18.21 In Chapter 11 we noted that the divergence of disability needs means that it is difficult to even conceive of a truly universally accessible vehicle. Local licensing requirements whose effect is to stop willing market participants from providing vehicles that cater for (even rare) disabilities require careful scrutiny.

18.22 In the next chapter we consider reform proposals relating to enforcement.

Question Reference 64: (Page 223)

CHAPTER 19 REFORMING ENFORCEMENT INTRODUCTION

19.1 In this part we set out our provisional proposals for improving enforcement of taxi and private hire law and seek views on the options for change.

19.2 We have identified a number of areas for potential reform:

- (1) enhancing licensing officers' enforcement powers;
- (2) the use of penalty point schemes to target enforcement at persistent offenders;¹
- (3) improved powers to deal with touts and providers of unlicensed services;
- (4) cross-border enforcement; and
- (5) funding enforcement action.

19.3 Breaches of the taxi and private hire vehicle legislation are criminal offences enforced through the magistrates' courts. Licensing authorities also have powers to suspend, revoke or refuse to renew an existing licence, and to refuse to issue licences.

ENHANCING LICENSING OFFICERS' ENFORCEMENT POWERS

19.4 Enforcement officers have expressed frustration at the limited scope of their enforcement powers. We have been told they can often feel powerless to enforce licensing regulations even in the face of flagrant breaches. The perceived lack of effective enforcement is of extreme practical importance. Limited resources, with only a few licensing officers typically covering a large number of licensees, is one factor.

Powers to stop vehicles

19.5 Local authority enforcement officers do not have powers to stop a vehicle, although they do have powers to inspect licensed vehicles for fitness. This means that to take effective enforcement action authorities frequently need to work with the police and perhaps the Vehicle and Operator Services Agency. This form of working is very important for ensuring vehicle standards are maintained.

19.6 We recognise there are significant practical difficulties, however, in giving licensing officers an extended right to stop any vehicle. Licensing officers could not determine whether a vehicle and driver are licensed in advance of stopping them. Whereas the power to stop a taxi or private hire licensee is unproblematic, the power to stop a member of the general public is a sensitive issue that raises civil liberties concerns. Similar powers are already available to enforcement officers from the Vehicle and Operator Services Agency in relation to public service vehicles and heavy goods vehicles. There may be a perceived difference in that buses and lorries are more often driven in a professional capacity, and the private versus professional distinction is less clear with an ordinary car. As with touting, also considered below, there are questions about the propriety of having a licensing officer, rather than a uniformed police officer, approaching members of the public and questioning them about their behaviour.⁶ Such powers would have to be proportionate, appropriate, and accompanied by safeguards and measures to ensure accountability and to avoid endangering the public.

Question 64: Should authorised licensing officers have the power to stop licensed vehicles?

Answer 64: Agreed

Question Reference 65: *(Page 223)*

19.7 Enforcement against completely unlicensed vehicles is also a serious problem. Areas where there is a high demand for taxis are at a high risk of touting.⁷ This is true of airports and town centres with a lively night-time culture for example. Whilst in any regulated trade there will always be a degree of illegal activity by those who refuse to come within the regulatory boundaries, we appreciate that touting is currently difficult to enforce against and to deter, at least in some situations.

⁵ For example, random checks in Malvern town centre in February 2012 found that 44% of the licensed vehicles stopped had problems so serious that they would not have passed a MOT test. See http://www.malverngazette.co.uk/news/malvern/9524130.Sting_op___s_taxi_safety_bombshell/ (last visited 23 April 2012). Statistics provided by the National Private Hire Association show that enforcement shows up significant levels of non-compliance across the country: Private hire and taxi monthly, "Swoop's gone mad!!!"(issue 233, February 2012) p 18.

⁶ On the other hand enforcement activity could most likely be targeted at individuals realistically suspected of having committed an offence rather than powers being used to stop people at random.

⁷ See Chapter 5 above.

19.8 The offence of touting criminalises soliciting passengers to hire vehicles for carriage as passengers.⁸ There is limited case law in respect of touting prosecutions and stakeholders have indicated the touting offences are rarely used in practice. On the other hand, the offence of illegally "plying for hire" is more frequently enforced.⁹

Question 65: What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”.

Answer 63: Heavy fines and crushing of vehicles

Question Reference 66: (Page 223)

The power to impound vehicles

19.9 We have also considered the option of granting local authorities powers to impound unlicensed vehicles used to provide taxi or private hire vehicle services. There are two current examples of such powers. The Vehicle and Operator Services Agency and the Traffic Commissioners are empowered to impound vehicles in respect of illegally operated public service and goods vehicles. The police have the power to seize vehicles which are operated without insurance. The latter is particularly applicable to vehicles which are used to illegally ply for hire, as under many policies this invalidates the insurance.

19.10 If a vehicle is impounded, it is for the owner to show that the vehicle had not been operated in contravention of the law.¹³ Where they were unable to do so, the vehicle would be sold or destroyed.

19.11 Targeting enforcement on the vehicle, rather than the driver alone, could have a significant deterrent effect and encourage those who operate on the margins of the system to obtain the necessary licences. There appear, however, to be significant practical drawbacks to this approach. In many instances the driver will be inside the vehicle to be impounded. Licensing officers, unlike the police, lack the power to order the driver to leave the vehicle and it is unclear what the appropriate basis for such a power would be.

Question 66: Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules?

Answer 66: Agreed

Question Reference 67: (Page 224)

FIXED PENALTY SCHEMES

19.12 A number of road traffic offences are now classed as fixed penalty offences. A fixed penalty notice may be given on the spot by authorised persons where that person has reason to believe that someone is committing, or has committed, a fixed penalty offence.¹⁶

19.13 The recipient of a fixed penalty notice can choose to pay the fine or have the matter heard in court. If they choose to pay the fine but do not do so by the end of the specified period, the financial penalty is increased by 50%.

19.14 The use of a public service vehicle on a road except under an operator's licence;¹⁷ and using a goods vehicle on a road for the carriage of goods except under an operator's licence;¹⁸ have recently become fixed penalty offences.¹⁹ This provides a precedent for professional licensing contraventions to be enforced using fixed penalty notices. Steps have also been taken to enable authorised officers in London to issue fixed penalty notices for certain offences though they are not yet in force.

19.15 There would be a number of advantages in making certain breaches of taxi and private hire vehicle legislation fixed penalty offences:

- (1) it would reduce the number of cases reaching court; and
- (2) it would be consistent with enforcement of breaches of other professional motoring requirements (for example public service and goods vehicle licensing).

19.16 Fixed penalties are only appropriate where the commission of an offence can be assessed objectively; for example, whether or not a driver is wearing his or her badge or whether a vehicle on a stand is a licensed taxi. Fixed penalties would not be appropriate for offences such as illegal plying for hire, where there is likely to be some argument as to whether the behaviour amounted to plying for hire.

19.17 Moreover we are aware of the risk that, in a professional context, fixed penalty schemes may be perceived as merely an added business cost for drivers rather than effective tools encouraging compliance. We note that some licensing authorities are currently already using informal penalty points schemes. The legal basis of such schemes may not always be clear and they are very controversial with the trades.

19.18 A key consideration is who should have the authority to impose such penalties. Currently such powers only extend to the police and specified authorised officers. The key issue is therefore whether this power should be granted to licensing officers.

Question 67: Should licensing authorities make greater use of fixed penalty schemes and if so how? (Page 225)

Answer 67: This 'Penalty' system has already been deemed illegal in court:

PENALTY POINTS SCHEME RULED UNLAWFUL

25/05/2012

Cardiff City Council was challenged on the validity of its "penalty point scheme" in respect of taxi and private hire drivers. This policy was today in the High Court declared illegal as the terms of the current policy fettered the discretion of the Council by stating if a certain number of points were accrued then a licence "would" be suspended or revoked and not that it "could" be.

As this then left no discretion to the Licensing Panel it could not be held to be reasonable or proportionate.

Provisional Proposal Reference 68: (Page 225)

CROSS-BORDER ISSUES

New cross-border enforcement powers

19.19 Enforcement officers are only able to enforce against vehicles licensed in the district for which they work. This leaves them unable to take action against vehicles and drivers from other areas, even those who hold licences. This has been one of the driving factors behind the growth of cross-border problems. Our proposal to extend enforcement powers is consistent with our proposals to simplify the law on cross-border working by private hire vehicles. Currently private hire vehicles can work legally in districts other than the one in which they are licensed provided the licences held by the operator, driver and vehicle are from the same district. Our proposals would enable private hire operators to use drivers and vehicles licensed in another district to fulfil a booking, and it is important to ensure that enforcement mechanisms sit properly with this greater flexibility.

Provisional proposal 68: Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas.

Answer 68: Agreed

Question Reference 69: (Page 230)

Powers to suspend and revoke licences cross-border

19.20 Extending the powers of licensing officers could, however, encounter some problems. Whilst criminal prosecutions can be brought anywhere and by any licensing authority, we note that non-criminal sanctions such as revoking a licence are frequently the most effective. Under the current licensing framework only the home licensing authority has the power to take such action. As this is the licensing authority which initially granted the licence and which holds the information about the licensee, this allocation of responsibility makes sense.

19.21 Where a vehicle or driver licensed in one area was found to be in breach of regulations in another area, under the reformed system allowing cross-border enforcement, their home licensing authority would be alerted to this and expected to take appropriate action.

19.22 There are however some concerns regarding the workability of such a system. The home licensing authority might have little incentive to take action against a driver or vehicle that is working remotely from its area. For instance London will attract cars licensed in many different areas. In an extreme case, some could be from a considerable distance. The distant licensing authority may have little incentive to incur the cost of enforcing breaches by their licensed cars so far away. This could leave the licensing authority in London where the breach took place with little recourse.

19.23 We consider three possible ways of addressing the problems raised by the London hypothetical above.

Informal cooperation between licensing authorities

19.24 Licensing authorities could be encouraged to enter into agreements with one another as a matter of best practice. In addition, statutory guidance could indicate how and when licensing authorities are to communicate such issues to other authorities, and how the receiving authority should act on this information. The most effective and coherent approach would be for the receiving authority to act on the information as though it had come from its own licensing officers. We recognise this could give rise to issues such as officers travelling to give evidence.

Formal procedures for cross-border cooperation

19.25 Alternatively the licensing system could provide formal procedures whereby the licensing authority where the problem occurred would give the licensee's home licensing authority a notice, the effect of which would be to generate a response there. The minimum response could be a requirement for the receiving authority to consider the infraction. In addition the notice could include a recommendation as to the appropriate sanction. If the receiving authority did not implement that sanction, then it would have to explain its reasons in writing. If the recommended sanction included revocation or suspension, the notice itself could activate an interim suspension, for a reasonable time; alternatively the suggested sanction could take effect by default unless the receiving authority vetoed it.

Full powers to suspend and revoke licences cross-border

19.26 A further, and more radical approach, would be to allow the licensing authority where the infraction happened to take corrective action directly. It could, for example, strip the driver and vehicle of their licences, even if these licences had been issued elsewhere.

19.27 We suggest that the appeal should by default be heard at the home licensing authority but there may be circumstances where it may be appropriate for the appeal to be heard in the place where the wrong occurred.

19.28 We suggest the intermediate option might be the better approach, appropriately balancing local licensing with the need for effective cross-border deterrence, but we welcome views on the best approach more generally.

Question 69: Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? (Page 226)

Answer 69: Cross-border hiring should not be permitted to ensure the safety of the travelling public.

FUNDING LICENSING AND ENFORCEMENT

19.29 Funding is a key element of effective enforcement. Under the current law licensing is generally self-funding.²⁴ We noted in Chapter 2 that the law on licence fees is in some respects unclear and leaves gaps. For example the legislation governing license fees in England and Wales (outside of London) does not expressly cover enforcement costs in respect of drivers and operators (although it does for vehicles). This may be regarded as an anomaly. On the other hand, the distinction between administration costs and enforcement can be useful. Administration costs could be more uniform across England and Wales (and more amenable for example to a national fee) compared to enforcement costs which will necessarily vary significantly between licensing authorities. This can be particularly significant because our provisional proposals envisage mandatory national standards for private hire services and the facilitation of cross-border work. Larger urban authorities that attract work from neighbouring rural licensing areas will have significantly greater enforcement costs. Appropriate funding arrangements will be heavily influenced by broader budgetary considerations across local government.

19.30 We recognise the importance of funding for effective administration and enforcement of taxi and private hire licensing. However the above considerations suggest it would be both premature at this stage of the project, and beyond the scope of this consultation paper, to make specific recommendations in respect of licensing fees.

19.31 In the next chapter we set out our provisional reform proposals in respect of hearings and appeals.

Chapter 20 REFORM OF HEARINGS AND APPEALS

Provisional Proposal 70: (Page 230)

INTRODUCTION

20.1 In Chapter 6 we identified a number of differences and inconsistencies in the existing appeal systems. We found differences in the rights of appeal available in the taxi licensing regime, as opposed to private hire system. We also found significant differences in the regime which applies in London, compared to that which applies in the rest of England and Wales. Our recommendations aim to simplify the system whilst ensuring aggrieved parties can seek adequate redress.

20.2 Our proposals regarding hearings and appeals are formulated against the backdrop of our broader proposals for reform of the taxi and private hire licensing system. Three main types of standards might apply to any licensee within our licensing framework:

- (1) national standards for taxis and private hire vehicles;
- (2) additional local standards for taxis only; and
- (3) individual conditions of licence.

20.3 A licensee may wish to challenge the standard itself; or the way the standard was applied to their particular case. Standards in turn can be general or specific to the applicant (in the form of an individual condition of licence). The appropriate route to a remedy will vary in each case.

Standards of general application

20.4 In principle where the challenge is to a general standard the mode of challenge should be judicial review. This is because the standard does not just affect an individual applicant but is of broad application. This would apply whether the standard had been set by the Secretary of State, in the case of national standards, or the local authority, as with additional standards for taxis. Any successful challenge should strike down the standard itself.

Individual conditions of licence

20.5 If the ability to impose individual conditions is retained, an appeal to the magistrates' court in respect of the specific condition would be the appropriate remedy. We propose that the appeal would be on the merits of the condition, as individual conditions would need to be reasonable.¹ This would essentially amount to a fresh hearing of the issue.

Challenging how a standard was applied in a particular case

20.6 A licensee may wish to challenge the application of a standard, for example in a decision to refuse, suspend or revoke a license. As this involves an individual decision taken by the licensing authority, rather than the underlying standard, the appropriate remedy would again be an appeal on the merits. Again, this would be to the magistrates' courts and would amount to a fresh hearing.

National standards

20.7 Our provisional proposals include the introduction of national safety standards for taxis and private hire vehicles and their drivers.² This could be accompanied by statutory guidance on how licensing authorities should apply these standards. Both the standards and the statutory guidance would be issued by the Secretary of State or the Welsh Ministers. Licensing authorities would be required to have regard to such statutory guidance in exercising their functions; and greater consistency in licensing could lead to a reduction in the number of appeals.

20.8 National standards and statutory guidance would be subject to extensive consultation and discussion with the taxi and private hire trades and local licensing authorities as well as disability and consumer interest groups. This approach would mean that questions about the propriety and suitability of

20.9 Not only would a reduction in appeals be indicative of an improved system, but it would result in considerable savings, both financially and in terms of court and stakeholder time.

Policies

20.10 Under the current licensing framework licensing authorities routinely adopt local licensing policies in respect of how licensing discretion should be exercised. For example a licensing authority could adopt a policy whereby left hand drive vehicles or tinted windows are not considered sufficiently safe.³ Policies on the relevance of convictions are also desirable.⁴ The effect of such policies on licensees is virtually indistinguishable from a statutory standard. Certain drivers and classes of vehicle may never be licensed for failure to satisfy the relevant policy, and anecdotal evidence suggests that policies are sometimes used to avoid licensing groups of vehicles such as stretch limousines or pedicabs.

² Licensing authorities would have the ability to impose additional local standards in respect of taxis. See Chapter 16 for a fuller discussion of our provisional proposals in this regard.

³ Vehicles with these characteristics would be consistently denied a licence although there were no official set of criteria it did not meet. Limousines are particularly vulnerable to such policies and their application can result in de facto exclusion of this type of vehicle from the private hire vehicle licensing regime in certain licensing authorities. Applicants could challenge the refusal of a licence however magistrates might be reluctant to second-guess a licensing authority's policy.

4 See consultation on proposed guidance on the relevant of convictions, <http://www.malvern hills.gov.uk/cms/business/licensing.aspx> (last visited 23 April 2012).

20.11 Under the current law such local policies can only be challenged by judicial review.⁵ This would not change under the reformed system. Under our provisional proposals local licensing policies would continue to apply but only in respect of taxi licensing.

WHO CAN APPEAL

20.12 Under the current law there are various differences in who has the right to appeal. The right of appeal can lie with the applicant or relevant licence holder; or it can be broader and apply to “any person aggrieved”.⁷

20.13 Under our reformed system, national standards will have been subject to rigorous consultation before being adopted. Similarly, local safety standards would be subject to a local consultation requirement. Such standards should only be challengeable by judicial review.

20.14 We recommend that statutory rights of appeal should be limited to the applicant or licence holder. This is because general conditions will only be susceptible to challenge via judicial review, which is available to a broad category of interested parties. Statutory rights of appeal will only exist in relation to licensing decisions affecting individuals and individual conditions. This should apply throughout England and Wales, and in respect of both taxi and private hire licences.

Provisional proposal 70: The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence.

Answer 70: Agreed as is current policy of all councils.

Provisional Proposal Reference 71:

DUTY TO RECONSIDER

20.15 As noted in Chapter 6, in London there is a statutory right to require a local licensing authority to reconsider a decision to refuse to grant, or to suspend or revoke, a taxi vehicle or drivers’ licence.⁸ If the applicant or licence holder is unhappy with the reconsidered decision of the authority, they have a right of appeal to the magistrates’ court. Alternatively, the appeal can be made to the magistrates’ court in the first instance, bypassing the reconsideration stage.⁹ This option is not available elsewhere in England or Wales. The applicant or licence holder must instead appeal directly to the magistrates’ court (or Crown Court).

⁵ This is discussed further in Chapter 6.

⁶ In Chapter 15 we ask whether licensing authorities’ powers to set local conditions should be subject to statutory limitations.

⁷ See Local Government (Miscellaneous Provisions) Act 1976, s 52 (Any person aggrieved by the refusal to grant a private hire vehicle drivers’ licence, or the conditions attached to such a licence, can appeal to the magistrates’ court); and s 59(2) (the right of appeal against a decision to refuse to grant a taxi drivers’ licence is limited to “any *applicant* aggrieved” by the refusal, and only then where the refusal is on the grounds that the applicant is *not a fit and proper person to hold such a licence*) (our emphasis).

⁸ See Transport Act 1985, s 17(2). See also our discussion of this in Chapter 6.

⁹ Transport Act 1985, s 17(2)(b).

20.16 The ability to require a licensing authority to reconsider its original decision is an attractive option. It is a cheaper and easier mechanism for obtaining an initial review and would enable genuine errors to be rectified easily. It would benefit applicants and authorities who would be spared the need to go to court, and it would remove a number of cases from the court system. We recommend that this right should be introduced for the whole of England and Wales. Appropriate safeguards would be needed to provide for a fair hearing before people not involved in the making of the original decision. We recommend that this should be a mandatory stage in the process, so that all applications for reconsideration would be considered by the local licensing authority in the first instance.

20.17 In London, the right to request reconsideration is open to any applicant who has been refused a licence or has had their licence suspended or revoked.¹⁰ We propose that this should remain the trigger for reconsideration. We recognise that such a procedure will increase demands on the time and resources of licensing authorities, but we believe this will be balanced by a reduction in cases which go to court. Furthermore, the proposed system of national safety requirements and statutory guidance should limit the number of cases in which an applicant or licensee feels they have been treated unfairly. Subject to recommendations elsewhere in this part, there would be an onward right of appeal to the magistrates’ court.

Provisional Proposal 71: The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision.

Answer Reference 71: The current process in place is sufficient.

Provisional proposal Reference 72: (Page 232)

20.18 One of our proposals for reforming enforcement of taxi and private hire licensing is that certain, less serious, breaches of the law should become fixed penalty offences.¹¹ This regime brings with it the option to either pay the penalty or elect for the matter to be heard in the magistrates' court. We discuss the magistrates' court's role below.

APPEAL TO THE MAGISTRATES' COURT

20.19 In most instances the right to appeal against taxi and private hire licensing decisions is to the magistrates' court.¹²

20.20 One of the concerns about the current system is that magistrates have little or no experience of taxi and private hire licensing issues. They are not a specialist tribunal like the Traffic Commissioners¹³ or First-Tier Tribunal (Transport).¹⁴ Magistrates may have difficulty mastering the complex and technical aspects of the taxi and private hire legislation. On a wider scale this lack of expertise can also lead to the introduction of inconsistencies into the licensing regime.

20.21 We understand the concerns expressed about the suitability of magistrates to hear appeals and have considered whether it would be more appropriate for cases to be referred to a specialist tribunal. However, in the light of our other proposals, we do not consider this to be necessary.

20.22 As discussed earlier in this part we believe that our proposals for a reformed two tier regime would make the legislation simpler to apply. Moreover, the appropriateness of any decision would be largely lifted outside the scope of the statutory appeals mechanism. Only complaints about decisions which directly affect individuals (and potentially individual conditions) would be heard before the magistrates. These are usually determined on questions of fact, which magistrates are well qualified to consider.

20.23 For these reasons, we are satisfied that the magistrates' court is the appropriate level for the remaining appeals.

Provisional proposal 72: Appeals should continue to be heard in the magistrates' court. (Page 232)

Answer 72: Agreed.

Question Reference 73: (Page 233)

ONWARD APPEALS

20.24 Under the current regime onward appeals on the merits lie, for the most part, to the Crown Court.¹⁵

20.25 Our proposals provide a two-step appeal system, with decisions first subject to reconsideration by the authority followed by a right of appeal to the magistrates' court. This is consistent with the current regime for taxi driver and vehicle licences in London, and should provide adequate safeguards against unfair, unreasonable or unlawful decisions. However given the importance of the rights at stake which affect peoples' livelihoods we understand that retaining an onward right of appeal to the Crown Court may be desirable.

Question 73: Should there be an onward right of appeal to the Crown Court? (Page 233)

Answer 73: Agreed.

May we thank the commission for allowing GMB to take part and respond to the consultation. If the commissioning feel that they need further clarification on GMB submission, please feel free to do so.

For and on behalf of the GMB National PDC,

Mick Hildreth National Secretary GMB PDC (email) [REDACTED]

And

Mick Rix GMB National Officer (email) [REDACTED]



From: Sandra Faithfull [REDACTED]
Sent: 10 September 2012 18:49
To: TPH
Subject: Proposed new private hire & taxi legislation
Dear Sir

Re: Proposed new private hire & taxi legislation

We are a very small wedding car hire company known as Faithfull Wedding Cars and operate in the South Gloucestershire area. We own three very beautiful classic Rolls Royce Cars proudly restored by my husband over a period of fifteen years to the condition they are in today.

Ours cars are used only to provide bridal transportation approximately twenty times a year, my husband wants to share his many hours of toil and see the appreciation from the very satisfied bride and groom on their special day, he has painstakingly restored these vehicles mechanically and cosmetically to perfection as do all classic/vintage car enthusiasts, their safety is paramount. There is no comparison what so ever with mini-cabs or taxis, a chauffeur driven classic Rolls Royce car in a taxi stand!!

We would never be able to financially support the new proposals, the cost to our customers would be too great it would severely limit the choice of cars available in the wedding car service industry, if this proposal goes through many many wedding car companies will cease.

I would strongly like to object to the new proposals and reiterate **WE ARE NOT PART OF THE TRANSPORT INDUSTRY WE ARE PART OF THE WEDDING SERVICE INDUSTRY**. Please let common sense prevail when considering the new proposals.

Yours faithfully

Sandra Faithfull
Faithfull Wedding Cars

This email was received from the INTERNET and scanned by the Government Secure Intranet anti-virus service supplied by Cable&Wireless Worldwide in partnership with MessageLabs. (CCTM Certificate Number 2009/09/0052.) In case of problems, please call your organisation's IT Helpdesk.
Communications via the GSi may be automatically logged, monitored and/or recorded for legal purposes.

From: bashir ahmed [b
Sent: 10 September 2012 18:53
To: TPH
Subject: Regulate or deregulate :

- 1/ Deregulation would be a disaster for a small City like Oxford as there is only work for certain number of Cabs. Apart from half past eight in the morning for one hour and half past five in the evening for one hour as there is the traffic rush hour, the drivers are often waiting on the ranks for jobs.
- 2/ There would be hardship for drivers and ultimately the drivers will have little choice but to claim of the State, low income and housing benefits instead of earning and paying taxes as we do now.
- 3/ Drivers will struggle to support their families and keep a reasonable standard of Cabs.
- 4/ The professionalism will go out of the window as drivers will aim to drive fast and try to get back quickly)to the rank to queue up for the next in turn.
- 5/ There will be more road rages and bad tempers, more pollution and more rat runs.
- 6/ The rip off artist will enter the trade to make quick bucks.
- 7/ The safety and comfort of passengers will be ignored. It will be a total kiosks.
- 8/ The double shift system we have now will disappear as single cab owner drivers will work the rush hours leaving the the late night passengers arriving from Heathrow and Gatwick wondering around streets looking for cabs.
- 9/ Please have a close look at the big Private Hire bases who have taken on more private hire cars than they have work for. The base bosses are raking in the money through the base rents while the poor drivers are some times taking risks by picking up off the streets unbooked jobs as their bases haven't got enough work for the number of cars they have taken on. As they can not make ends meet they are also claiming of the State low income and housing benefits. My view is that these private hire bases should only be allowed to take on cars as they have work for and NOT as many as they want.

As regards to keeping regulation or deregulation I believe it should be best left to the local authorities to decide what is best for them as they are closer to their City's ground reality.

Sent from my iPhone

From: [REDACTED]

Sent: 10 September 2012 18:56

To: TPH

Subject: licensing of wedding cars

We thought this government was about cutting red tape. How many accidents have there been, how many complaints about bad service.

What a waste of civil servants and parliamentary time.

Norman and Lynne Edmunds

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From: Alan Smith [REDACTED]
Sent: 10 September 2012 19:01
To: TPH
Cc: 'Linda'
Subject: Licensing of funeral limousines.

To whom it may concern,
This proposal is absurd.

A limousine owned and operated by a funeral director or carriage master is used specifically and only on funerals. A funeral business already has business and public liability insurance. These vehicles are not hired separately, as are taxis and private hire vehicles. There is no difference between a limousine in a cortege and a following private car, so why shouldn't all cars in a cortege be 'licensed'. These vehicles are supervised from the beginning to end of the funeral and do not travel great distances or high speeds. At a time when the Government is trying to reduce red tape on businesses, this proposal will merely add another unnecessary layer with no material benefit to the customer. It will merely add costs to the overall funeral price, which, in turn, will affect employment within the industry and impact on both the Social fund and local authority revenues.

Yours faithfully,

Alan Smith,
Chairman, Smith Yeatman Ltd. Funeral Directors & Monumental Masons.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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CONTACT: Stephen Meale
DATE: 10 September 2012
E MAIL: [REDACTED]

Public Law Team (Taxi and Private Hire)
Law Commission
Steel House
11 Tothill Street
London
SW1H 9LJ

Dear Sir/Madam

Re: Proposals to reform the law of taxis and private hire services

Please find attached the response dated 10 September 2012 from Bristol City Council in respect of the consultation on the reform of the law in respect of taxis and private hire services.

We have consulted with the Licensing Team and Public and Passenger Transport Team based within this Council and with our Legal Services. The consultation and the responses received have also been brought to the attention of members of our Public Safety and Protection Committee.

This response replaces any earlier version sent on behalf of Bristol City Council.

Should you have any queries, please contact me via e-mail on stephen.meale@bristol.gov.uk.

Yours faithfully

S R Meale

Stephen Meale

**Policy Coordination Manager
Enforcement and Regulatory Services
Safer Bristol**

Policy Co-ordination Unit
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Response to consultation in respect of proposals to reform the law in respect of taxi and private hire services

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. (Page 160)

Agreed. A two-tier system prevents unnecessary barriers to enter the trade. It is desirable to have vehicles, which can be hailed immediately and for the driver of such a vehicle to have a good level of knowledge of the local area so that the most economical route can be taken to the destination.

If all new applicants were required to have this level of knowledge the number of vehicles available for hire would reduce. As such, it is appropriate to have 'private hire vehicles' not available for immediate hire so that the driver can have a lesser knowledge of the area but can pre-plan a route and be restricted to a fare set by his/her private hire operator, which reduces the chance of overcharging if the driver takes a less direct route (and the fare was on the meter).

It is also desirable that regulators may take steps to better enable communities within the area as well as visitors to know if the vehicle is one that is available for immediate hire. In some places this has been achieved by measures such as the imposition of a uniform colour, which can be a very effective safety measure in the UK and abroad (Bristol, New York and Nottingham all use colour in this way). It would be unreasonable for legislative change to undermine public safety messages carefully developed through local democracy, but at the same time imposition of such requirements on businesses whose trade of choice is limited to pre-booked private hiring would be burdensome and could be a barrier to provision of the service.

REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. (Page 162)

Agreed. It seems sensible to have a level playing field throughout England and Wales to enable operators to work together irrespective of their geographical location.

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. (Page 164)

Agreed. Similar public safety risks apply to all types of service so safeguards should be in place for all.

Question 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? (Page 164)

This may assist the entry of non-motorised vehicles into the trade e.g. pedicabs. However it is surely desirable to ensure safeguards are in place to protect members of the public who use these services and therefore they should be subject of appropriate controls. Consideration should be given to the need for proficiency, as a road user, for “drivers”, albeit the need to hold a DVLA or equivalent licence may not be necessary or proportionate in every case.

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. (Page 165)

Agreed. The current system of local authority and Traffic Commissioner regulation works well.

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. (Page 166)

Agreed.

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. (Page 167)

The licensing of limousines and any other vehicles with 8 or fewer passenger seats should remain with local authorities. Similar vehicles with 9 passenger seats or more should remain with the Traffic Commissioner.

Guidance should be issued to both regulators about acceptance of such vehicles for licensing (subject to safety checks) and as an exception to local policies on age of vehicles etc. The current situation of many limousines 'falling through the gaps' should not be permitted to continue. Guidance should also set out minimum requirements for vehicle conversion or provide a list of approved converters.

Provisional proposal 8

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. (Page 168)

It may be desirable to exclude genuine volunteers from the scope of the licensing regime. However, as stated at paragraph 14.46 of the consultation document, many volunteer drivers convey vulnerable people; so, whilst this particular licensing regime may impose requirements on drivers acting 'in the course of a business of carrying passengers' that are not justified in the volunteer role, the Commission will no doubt wish to be satisfied that any such limitation will not operate so as to remove existing protection from harm for the most vulnerable passengers.

Question 9

How, if at all, should the regulation of taxis and private hire deal with: (a) carpooling; and (b) members clubs? (Page 170)

Both should be exempt from licensing but consultation on the wording of any such exemption would be desirable with a view to avoiding the burden of litigation that is a consequence of poorly drafted exemptions.

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. (Page 171)

Agreed. This could be beneficial and allow flexibility in later years for previously unthought-of services.

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. (Page 172)

As detailed in the consultation document it may be appropriate to not offer a blanket exemption in primary legislation, and instead permit the Secretary of State to exercise his/her power to provide an exemption subject to certain restrictions.

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse?

(Page 174)

In certain circumstances the reintroduction of the contract exemption could be appropriate via the Secretary of States powers. The restrictions previously applicable as stated in the consultation document:

- Contract to last for longer than seven days,
- Contract to be in writing
- Contract to state end date
- Contract to relate to a specific vehicle(s)

However, prior to the repeal in 2008, enforcement of unlicensed operators was hindered by the contract exemption. Many operators worked under the guise of a contract exemption, and had contracts in place but the requirement of exclusive use was not adhered to. In reality the contracts operated on a "call-off" basis rather than the exclusive use of a specified vehicle and driver for seven days or more that case law established took the activities out of the scope of regulation. However they also carried out additional work outside of the contract. Obtaining evidence of this was problematic and the penalties on conviction were always low. In addition the monetary rewards of many contracts were high. A small fine in the Magistrates' Court was not a sufficient deterrent, and as there was no operator's licence to revoke the operator could continue to provide vehicles under contract despite numerous prosecutions.

If the contract exemption is re-introduces it may be appropriate to restrict its use to public sector organisations (as mentioned in the consultation) and also have a provision that any person, company or organisation convicted of acting as an unlicensed private hire operator be excluded from benefiting from the contract exemption, either permanently or for a defined period of time. If this was introduced careful drafting would be required to ensure that any business or partnership that that person or that company was involved in was also excluded, as unscrupulous operators often find a way around any restrictions.

All that said, in practice many bodies depend upon the licensing regime to satisfy themselves that vehicles and drivers used in their contacts are of a certain minimum standard. Some may choose to impose additional standards. There is a risk that introducing a contract exemption for public bodies etc may in practice impose a costly burden on those bodies that

serves to increase the overall cost of regulation to the public purse in this area. This would not be a desirable consequence. A de facto duplication of regulatory control would appear to be contrary to the deregulatory thrust of the Commission's project.

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets". (Page 175)

Agreed as per consultation.

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? (Page 177)

Agreed, subject to the over-riding regard to any security issues at airports.

Provisional proposal 15

The defining feature of taxis, the concept of "plying for hire", should be placed on a statutory footing and include:
(a) references to ranking and hailing;
(b) a non-exhaustive list of factors indicating plying for hire; and
(c) appropriate accommodation of the legitimate activities of private hire vehicles. (Page 181)

Agreed. The concept of "Plying for hire" must be placed on a statutory footing.

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. (Page 181)

Agreed.

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of "arrangements made in a public place" instead of "plying for hire"? (Page 182)

All approaches have advantages and disadvantages. The concept of plying for hire, whilst sometimes misunderstood, is ingrained and as stated has been used for hundreds of years. Given the pitfalls with any approach it may be

appropriate to retain “plying for hire” and, as proposal 15 states, place it on a statutory footing.

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained. (Page 182)

Agreed. This is an essential element of ‘public hire’ and is of paramount importance.

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. (Page 183)

Agreed.

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved. (Page 184)

Leisure and non-professional use should not be permitted in respect of hackney carriages. Whilst the consultation paper states that there have been no obvious problems in London and that any problems are overcome by the reversal of the burden of proof this is not necessarily the case.

Any such change would make enforcement substantially more difficult. How would a brother, friend, spouse etc driving a licensed vehicle ‘prove’ they were not working? For example a spouse driving a licensed vehicle would only be able to state they were not working – would this evidence be acceptable? Irrespective of the burden of proof, authorities are unlikely to risk public money by entering into a prosecution unless there is evidence of unlicensed work being conducted. This change would increase the risk of unlicensed drivers carrying out hackney carriage work.

Given the need for private hire bookings to be made via an operator and the operator’s obligations to ensure all drivers are duly licensed, a relaxation in law to permit non-professional etc. use of private hire vehicles, whilst not risk free, is of lower risk to the public, and especially in areas such as Bristol where hackney carriages are readily identifiable by their physical appearance together with the usual signage.

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements. (Page 185)

Agreed.

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned. (Page 185)

Agreed for the reasons set out in the consultation paper.

Question 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “prebooked” and did not otherwise lead to customer confusion? (Page 186)

Yes, but the clarifying words must be at least as prominent as the words “taxi” or “cab”.

A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements. (Page 188)

Agreed.

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards. (Page 189)

Agreed.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. (Page 189)

National safety standards would be appropriate if a sufficiently high enough standard such as those contained in the Hackney Carriage and Private Hire Vehicle – National Inspection Standards prepared by the Hackney Carriage and Private Hire and Inspection Technical Officer Group. However, in

exceptional circumstances it may be appropriate to permit additional local requirements.

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no longer apply to private hire drivers. (Page 190)

Disagree. Even with the ability to pre-plan routes it is appropriate to require Private Hire Drivers to have some degree of local knowledge and also have the ability to do basic arithmetic and speak English to an appropriate standard. It should also be borne in mind that many disabled users are heavily dependent on pre-booked services so may suffer a disproportionate impact if standards were permitted to fall too far.

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? (Page 190)

Yes, for the reasons set out in the consultation, local standards are appropriate.

Question 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? (Page 191)

Would need more information on the proposed standards to comment.

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (Page 192)

Locally a lower standard is accepted for knowledge of the area, but otherwise standards are currently equal for both private hire and hackney carriage drivers licences. We would need more information on the proposed conditions to comment further.

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety. (Page 192)

Agreed.

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. (Page 193)

Agreed.

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? (Page 193)

Agreed.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. (Page 193)

Agreed.

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? (Page 194)

No. Whilst the motivation is well understood it is considered that the existing legal requirements to act reasonably, proportionately and in accordance with convention and other rights afford sufficient protection. Bristol's experience as an authority that has high quality standards and no numerical control is that, even in a difficult economic climate, there is no evidence that this is acting as a barrier to entry.

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? (Page 194)

Yes, liaison with trade bodies together with the statutory right of appeal is an adequate safeguard against excessive use of local powers.

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? (Page 195)

Working in partnership with neighbouring authorities can bring substantial benefits. However it is important that each authority is able to determine if this

is appropriate without being required by statutory provisions. However clarification of the power to do so would be helpful.

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. (Page 196)

Agreed – authorities should have the option to do this if they wish.

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. (Page 196)

The view of Licensing Officers, who deal with the administration of taxis, is that such a proposal would be overly onerous to monitor and enforce within Bristol; however as the proposal is that this is to be an option for licensing authorities, we do not object to this proposal, which may be of benefit to some authorities.

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? (Page 197)

The view of Licensing Officers, who deal with the administration of taxis, is that such a proposal would be overly onerous to monitor and enforce within Bristol; however as the proposal is that this is to be an option for licensing authorities, we do not object to this proposal, which may be of benefit to some authorities.

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. (Page 198)

This is an area where considerable confusion reigns amongst both regulators and licensees. Any change to the law should ensure that there is effective regulation and consumer redress.

Provisional proposal 42

We do not propose to introduce a “return to area” requirement in respect of out of- area drop offs. (Page 199)

Agreed.

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares. (Page 200)

Agreed.

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (Page 200)

No, not usually. For transparency for the public, the maximum fare charged should always be that shown on the taximeter. However there may be a case for permitting a higher fare for pre-booked journeys under a written contract, particularly with a public body or similar (Local Education Authority, hospitals etc) under which that body seeks to secure the provision of services for vulnerable users often at times of peak demand. However it is suggested that any additional charge should be capped to no more than a reasonable percentage above the metered rate and that the circumstances in which an additional charge is permitted should be tightly controlled. It is understood that the current restrictions on charging more than the metered fare can either discourage the use of hackney carriages for such work, when it is the hackney carriages which are most suited to it, or that the restriction is being ignored in favour of securing an adequate provision. In Bristol a suitable allowance in the table of fares to cover the costs of contract administration for such work has helped to overcome these difficulties, but a better approach might be to allow a limited percentage increase for such use which would appear to be in the public interest providing it is not allowed to operate as a blank cheque for the service providers.

REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING

Question 45

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

- (a) set out in primary legislation; or**
- (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 203)**

Minimum criteria for meeting the fit and proper person test should be set out in primary legislation. However the Secretary of State should have the ability to impose further criteria if required.

Provisional proposal 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. (Page 204)

Whilst in practice it is rare for a vehicle licence to be revoked based on the suitability of the licence holder, it may be appropriate to retain the ability to do so.

Question 47

**Should national vehicle safety standards be either:
(a) set out in primary legislation; or
(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 205)**

Standards could be set out in primary legislation, if so the Secretary of State should retain the power to set further standards as and when required.

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. (Page 206)

Agreed.

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? (Page 208)

Yes in the interests of public safety and consumer protection.

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. (Page 209)

Agreed.

Question 51

Should “fit and proper” criteria in respect of operators be retained? (Page 209)

It is essential this test be retained. Operators play an important role in the control of drivers undertaking work for their operation. They also have access to personal data.

Provisional proposal 52

**Operators should be expressly permitted to sub-contract services.
(Page 210)**

Agreed.

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? (Page 210)

Yes in the interests of public safety and consumer protection.

REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers. (Page 213)

Agreed. In line with guidance this authority no longer exercises numerical control, but whilst the power remains this will continue to be a contentious issue between regulator and regulated and authorities who continue to exercise numerical control will be called upon to justify their actions to government, which is concerned to avoid anti-competitive practice.

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? (Page 213)

None are perceived in this authority.

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed? (Page 215)

No.

TAXI AND PRIVATE HIRE REFORM AND EQUALITY

Question 57

Should there be a separate licence category for wheelchair accessible vehicles?

This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and**
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. (Page 217)**

In the city of Bristol all hackney carriage vehicles are required to be wheelchair accessible vehicles. We would support effective and workable proposals to extend and improve accessibility for wheelchair users.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? (Page 217)

They should not be required to do so, but if a power is conferred it should be clear that the costs can be borne out of the licence fees as a whole and not for an additional burden on the Council Tax payer.

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? (Page 217)

Disabled passengers have different needs and any proposals need to consider different access points (ranks) for rear loading vehicles. Bristol has an all wheelchair accessible hackney carriage fleet of mixed vehicle type together with high standards of comfort etc in its private hire fleet where wheelchair accessibility is not a requirement (although the market operates so that there is a good supply of wheelchair accessible vehicles for private hire). Bristol would not welcome any change, which undermines this mix, as it offers a good variety of vehicle options to all users of services for hire and reward.

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. (Page 218)

Agreed

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. (Page 219)

Agreed

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. (Page 219)

Agreed

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? (Page 220)

Yes, together with suitable guidance to Justices on post-conviction sentencing and in the consideration of appeals where licences have been revoked or suspended following discriminatory acts. Bristol considers there should be a presumption of full costs awards to local authorities in all such case where they are successful and that the court should be permitted and encouraged to award compensation to the victim that reflects the hurt and suffering caused by such treatment.

REFORMING ENFORCEMENT

Question 64

Should authorised licensing officers have the power to stop licensed vehicles? (Page 222)

No, the requirement that certain powers are exercisable by Constables is surely intended to protect citizens. Extending this power to authorised council officers could place the licensee at risk of harm from persons posing as Licensing Officers and it is not considered this risk is outweighed by any perceived benefit in enabling such powers to be exercised by Local Authority enforcers.

Question 65

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”. (Page 223)

Bristol actively enforces against those who ply for hire without a licence. Public education of the need to avoid vehicles that are not “Bristol Blue” hackney carries is also an effective measure that helps to keep the public safe from those who engage in the practice of touting and/or unlawful plying for hire.

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? (Page 223)

Yes, but only when that use is proportionate and features amongst a range of non-court disposal options.

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how? (Page 225)

Yes, particularly for lesser offences; for example, failure to display plates correctly, dirty vehicles etc. The ability to offer conditional cautions would also be a useful tool in the hands of the local authority regulator. It seems right that enforcement options should be harmonised between the Police and the local authority.

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. (Page 225)

In principle we would support cross-border enforcement powers but we would require more information as to how this is to be achieved to comment in detail.

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? (Page 226)

We would require more details to comment in detail but would be inclined to support the intermediate suggestion of formal procedures for cross-border cooperation referred to in the Law Commission's report. One option might be to confer rights on the non-licensing Council (the Other Council) to make a report to the relevant committee of the authority that issued the licence (the issuing authority). This could be backed up with appeal rights for the Other Council in whose area the alleged problem took place. Such an approach would avoid the practical problem that the licensing history is in the hands of the Issuing Authority, which should remain responsible for the lawful processing of data, including sensitive personal data. It also maintains a fair balance between the need for the Issuing Authority to be accountable to its electorate for its decisions whilst safeguarding the rights of communities and visitors in the Other Council in whose area the licensee is alleged to have caused problems.

REFORM OF HEARINGS AND APPEALS

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. (Page 230)

No, for example, if a driver commits an offence and the vehicle licence is suspended the vehicle proprietor should be able to appeal.

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. (Page 231)

No. Although there may be circumstances where it is appropriate for a decision to be reconsidered by the authority, permitting this as a general right may only serve to further delay the final determination of such appeals. It is the experience of Bristol and many other authorities that appeals already become unnecessarily protracted even where (perhaps especially where) they lack merit, for the reasons referred to in the paragraph below.

Enacting a power enabling Justices to remit back to the licensing authority, for reconsideration in certain circumstances might prove a better way forward, e.g. where an Appellant seeks to rely upon information, which was not before the licensing authority. In such a case he or she could be required to disclose this on the day of (or, say, within seven days of) the appeal, so that the Justices, having heard from the Respondent, can consider at an early stage of the process whether a remission back is appropriate.

Undue delay in appeals being concluded in the courts is to the detriment of the public except in those cases (which are rare in this Council's experience) where the appeal is upheld. This is because the Appellant retains the right to continue to trade free of enforcement action notwithstanding the decision that his licence should be suspended or revoked. The imposition of an additional layer on the appeals process that may serve to lengthen the process is undesirable for this reason. It may also have the effect of increasing the number of cases in which the Licensing Authority judges that public protection requires the decision to have immediate effect.

Far from adding a new stage to the appeal process, Bristol would urge the Law Commission to consider removing the second stage appeal to the Crown Court, which in its experience is also often used as a tactic to delay the time by which the licensee has to cease the licensable activity. Removal of the right of appeal to the Crown Court would bring taxi licensing in line with other local authority licensing regimes, in particular that under the Licensing Act 2003, which it is observed also features a power to remit back to the authority. In Bristol's experience that power to remit can be successfully used to limit (and in some cases remove entirely) the need for lengthy and expensive litigation.

Bristol City Council

10 September 2012

Carlisle Taxi Owners Association



"Bad laws are the worst sort of tyranny."

Edmund Burke

A response to the Law Commission

Foreword

The Carlisle Taxi Owners Association (CTOA) is a representative body of both hackney carriage proprietors and drivers from Carlisle, Cumbria; we have represented the taxi trade since the 1960's at both local level, in being a stakeholder with our local authority, and national level by virtue of our membership of the National Taxi Association (NTA).

The general opinion of the association in respect of the consultation by the Law Commission (L.C.) is one of disappointment and lost opportunity. It would appear the LC has lost sight of their initial aim of reducing burdensome legislation, by suggesting more regulation.¹

It would be neglectful of this association to fail to point out that for the Law Commission, a body emanating from the law profession, to point towards unnecessary regulatory burdens in the taxi and private hire industries is ironic in the extreme; the law profession is seemly awash with arguments about minimum wage² and 'Tesco Law'³.

The Law Society stated the following in respect of the minimum wage;

"The Law Society was concerned that the result of this decision will be that trainees who will be offered the reduced minimum salary, who are likely already to have substantial debts, will find themselves in significant financial difficulty and forced to take on other work which will distract them from giving full attention to the training contract. Alternatively, those trainees who have private means will receive an undue advantage over potentially more meritorious candidates. Neither result will be good for the diversity of the profession."

Our association had great misgivings about the remit given to the L.C. at a very early stage, coming into the project with a political theory - the recurring theme of a deregulatory objective - in our belief offered only a dogmatic view and prospective outcome. The remit given appears to be one of the LC being advocates of hard measure, one of seeing the taxi trade as an industry in need of serious correction.

In many respects our initial view appears to have been correct, the almost Machiavellian manner in which the rationale of the documents differ from the provisional proposals reek

of a type of voodoo very often associated with politics. In this manner it is difficult to disassociate the L.C. as nothing more than advocates of the pre-ordained political agenda – we have always considered a matter as relatively mundane as ‘taxis’ as reasonably aloof from political aspiration – sadly we find ourselves amidst that particular world.

The laissez-faire approach to private hire, advocated by the L.C. is ostensibly not deemed correct for hackney carriages; the LC cites (quite rightly) local control. This stance does not however extend to locals being best placed to decide on a seemingly more controversial issue such as control of taxi numbers – the stance of the L.C. appears to be - *locals are best placed to decide, just not best placed to decide certain things* – this would appear to be a somewhat duplicitous position.

We found the consultation documents badly structured, thought out and repetitive, with little rationale between questions, the majority of which were seemingly placed in no specific order, a true rigmarole of documents in the original sense. The questions themselves appear to be based upon presumptions therefore they were difficult to answer and in cases misleading – numerous members advised us they believed this was a deliberate ploy.

The structure of the documents have also created concern, an obvious point is at 1.27 where the L.C. point to ‘grey areas’ in the licensing of limousines, these points are rehashed at various areas in the documents, however limousines are mentioned regularly in many parts, thus confusing many of us 3.63, 3.66, 3.77 – 3.84, 4.49, 4.51, 4.52, 8.15, 13.5, 14.3, 14.23 & 20.10

It is patently obvious to anyone with any degree of knowledge or interest in the taxi and private hire industries, that vast swathes of the consultation documents have not been assembled via the route of discussion with the industries, but via a ‘Google’ search facility on an office computer. Not that this in itself is wrong, although the impact assessment is giving links via a ‘Google’ search. We would contend that the cab trade is a very diverse industry; however, we would contend that this type of research is not conducive to the best and most accurate results or opinions.

The above point was summarily confirmed when the L.C. felt the need within three weeks to rehash their impact assessment, they had made an almost elementary mistake in grossly underestimating the turnover of the taxi and private hire industries. The following was stated on the L.C. website;

"Following feedback we produced a revised draft of the impact assessment stripping out the data which appears unsatisfactory or not robust and to ask further questions. We welcome further comment on the data and would be grateful for further information." ⁴

The updated figure is £2.585 billion, as compared to £1.4 billion previously, demonstrates quite a dramatic miscalculation. It is obviously illuminating to find out where the LC obtained their original figures, a 'dot com' website being cited where an interested party would have to pay to scrutinize. There are some that would suggest this was a deliberate ploy, invariably when faced with a website where money requested, the link is usually closed. A further report from IBIS world recently suggested the figure was closer to £8.85 billion⁵, further throwing LC figures into ignominy.

We also wish to point out that to allow a mere three months to answer the consultation – given that all members of our association are working taxi drivers is a serious worry – whilst we appreciate the issue of taxis and private hire are of little consequence to the majority of the UK population – it is of great significance to ourselves – ultimately we will be the ones left to work with any future law.

It is amazing that a law that has stood – practically unchanged since 1847 and is perfectly workable some 160 years later - is subject to the (political) expediency it is currently being seemingly exposed to. An extended period of around 6 months would have been (and still is) appreciated from our association – although we understand the L.C. has extended the consultation period by the somewhat miserly period of one month (the new date being 10th September 2012).

The problem isn't so much answering the consultation, although that will be troublesome enough; it will be collating the answers by our national body.

As anyone who has ever sown a lawn will know, for every few seeds scattered only a few will actually germinate (unless you use some bizarre pre-germination rouse using cold tea), in many respects the LC document is like this. There are a few ideas of very little merit seemingly punted into the document possibly in the knowledge they'll be dropped in the future. However, it doesn't take a genius to realize where the sights are actually aimed at.

We also question the L.C. commitment with regards to the retention of the two tier system, although we firmly believe there is a place in the system for hackney carriages. It is reasonably obvious that private hire covers a multitude of differing business models – a miniscule amount of lateral thinking should lead to the realization that to expect a single tier to cover half a dozen or so differing business models under the umbrella of a single license is foolhardy in the extreme. We will raise this question within this paper.

We are disillusioned to read the view of the L.C. in respect of “*market failures that are specific to the taxi market*”⁶. The association considers this view demonstrates a rather alarming lack of understanding of the taxi trade. We found it quite amazing that the LC appear to have trawled Europe in their quest for the deregulatory justification in their documents, but have not gone to the same lengths to seek the true socio economic effects of their policy.

Taxis are a localised form of transport, whilst we acknowledge the L.C. would currently like to continue licensing vehicles on a localised level, we view the erosion of local authority powers in respect of licensing private hire on a national basis as extremely damaging – and without forethought to the consequences.

The comments regarding the night time economy show a total ignorance of the night time economy in the majority of the country – they appear to base their views around metropolises as opposed to the vast majority of the country.

The entire vision of the L.C. proposals would appear to hinge on National Standards being set for both private hire drivers and private hire vehicles. It is clear from the documentation the L.C. has little idea of what these national standards may be, this is a

worrying position, as unless people are aware of the standards they have little idea what they are in fact agreeing to.

The above being stated, the rationale behind the standards has been thought out, the thought being, if all standards are the same there would be little point in licensees 'shopping around' for perceived lax licensing regimes. Of course, and as mentioned, by not actually advising what the standards will be, by leaving that area open to differing interpretation (and suggesting a cheap and cheerful), the general view is that the standards will be minimal. A national standard would after all include not only places such as London, but rural areas where businesses may be run without great profit.

Our association believes the standards mentioned above should be set locally; it is locals that have to live with taxi and private hire services and it is equally obvious they are the ones also best placed to determine the purely localised services for both taxis and private hire vehicles. We believe a deviation from this core principle of 'localism' is perverse to one of the coalition government flagship policies and we are highly surprised the L.C. would choose to rule private hire direct from Whitehall.

Indeed, we find it astounding that a large proportion of the issues surround the issue of enforcement, yet the L.C. 'do not think it appropriate to reconsider the issue of cost recovery'⁷. One has a huge impact upon the other.

Great swathes of the LC documents hinge upon interlinked policy, these include the national standards mentioned above, license fees, enforcement and so on – it is incredibly complicated and like a house of cards, each piece is very much dependent upon the other.

We will in the next few pages carry on dissecting the papers, however it would be folly of us not to point out our belief that this is nothing other than an exercise in futility, we sadly believe the L.C. has a closed mind on many issues and in many respects, irrespective of the persuasiveness of our arguments we face a 'fait accompli'.

The Law Commission state the customer should be at the heart of legislation; given their plans presumably everybody should be free to choose the company they wish to get lost

with. In terms of driver safety, the LC appear to have given that the same amount of thought as the average person does each day about the socks they'll wear to work.

It is unlikely, due to the political agenda set out within the remit the L.C. are working to, that they will have an epiphany.

There are numerous difficulties in writing a response, without questioning the reasoning behind the position of the L.C. my association will attempt this over the next few pages. We fear many of those answering will be inadvertently agreeing to statements they do not comprehend, the consultation responses could therefore present a modern day "ragman's roll" of consent.

Wayne Casey, Chairman, Carlisle Taxi Association

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We wish to thank **Adam Brown** of St. Albans who forwarded us documents and opinions from the other end of the country proving we weren't quite as mad as we thought we were when we started this paper – our suspicions were shared.

We wish to thank **Charles Rathbone**, Curator of the Taxi Library, who began working as a taxicab driver in San Francisco in 1975. He also worked as a labour and community organizer. He operated a cab as a single-shift independent owner-driver and as an employer with his own one-cab micro-fleet! He currently works as an assistant manager at a fleet with 200 cabs.

Charles earned a BA degree in Geography from the University of California at Berkeley, and satisfied a wanderlust that took him to 40 states and 33 countries.

Contents

Foreword	2
Acknowledgements	8
Contents.....	9
Economics	10
A Happy Conspiracy?	15
The rather bizarre impact assessment	22
Problems with the L.C Documents	32
Problems with the Law?	38
Excessive burdens on business.....	43
A rebuff of chapter 9 Quantity Restrictions	53
A rebuff of Chapter 10 Cross-border issues.....	68
Consideration of Chapter 11 Equality and taxis in the community.....	74
Consideration of Chapter 12 Technology.....	77
Consideration of Chapter 13 – Overview of provisional reform proposals.....	80
Zoning.....	84
Consideration of Chapter 14 – Reform of Definitions & Scope.....	86
Fees.....	100
Cab related offences by Constabulary.....	102
Endnotes	111
Law commission Provisional Proposals & Questions	116

Economics

In the words of Richard Percival to the NTA Conference in Scarborough;

“A general point here is that this whole deregulatory move is based on the idea that, by and large, open competition in a capitalist economy is the best way of delivering goods and services. That is the general view and that is part of where we have to start. Now if that is the starting point then one argument that isn’t going to be so persuasive is that you need to have certain regulatory features in place because it guarantees your income.”

Without wishing to doubt the words of Mr. Percival it is quite obvious the majority of the Capitalist economy is not subject to open competition, in fact all businesses are subject to regulations of some description. A person simply cannot open a shop on a high street and declare themselves as solicitors in much the same manner as a person cannot simply walk into a bus depot and declare they are a bus driver.

Indeed, even a relatively simple looking business such as an ice-cream van is subject to all manner of rules and regulations that are within the interests of the general public – many of these regulations are localised and differ from area to area.⁸

Sadly, our association do not believe there is going to be any mileage in trying to convert Mr Percival from the darkside. Those espousing the free market do so in worship to a god, the god of the market, we are told the markets are gloomy⁹ or the market is buoyant¹⁰, in the general sense the market is not so much a living entity, but an omnipresent being. When the market is angry all will suffer. The market supporters are merely acolytes, like those that worshiped the golden calf in the story of Moses.

The words of Mr. Percival typify the doctrinal ‘deregulatory’ approach of the L.C. it also demonstrates a gross misunderstanding of the taxi industry.

Regulations towards numbers controls are not put in place because local authorities wish to see taxi proprietors have a guaranteed income, or for licenses to act as retirement funds, they are put in place to ensure the public interest.

Andreas Kopp, Lead Economist at The World Bank stated; *“Perfect competition requires that consumers can choose between different producers”*¹¹ He carried on to state;

“The positive expectations with respect to deregulation of the taxi industry were based on the belief that the industry is an atomistic industry with minor fixed costs which should therefore develop into a perfectly competitive industry, providing taxi services at minimum costs. Given the experience with the deregulation of the taxi industry these expectations seem to have been naive.”

It is obvious the ‘perfect competition’ mentioned by Andreas Kopp can never happen in the taxi market, there are simply too many imperfections to ensure perfect competition. A customer for example may not wish to walk down a line of taxis and question each driver about cost, a customer may well be hailing a cab with little certainty when the next cab may pass, additionally a customer may be standing in a queue, in these cases negotiation with a driver is not only unlikely, the actual suggestion has no grasp with reality.

We do not suppose any person would expect to walk into a supermarket and use a bartering system with the store to negotiate a lower price for a tin of peas, yet we appear to have the economists of this world expecting this with cab drivers.

A driver may choose to purchase an expensive taxi that will take wheelchairs and up-to eight passengers, economics would suggest he should be able to charge a premium for his service over a rival who has perhaps purchased a vehicle which merely has the standard four seats and is considerably older. This type of activity is currently forbidden by law – even though the costs of operating both vehicles are entirely different. Although this distortion goes against economic theory it is rather more simply put in place to protect the public.

Taxi fares are set by the majority of local authorities for the protection of the public. Indeed, numerous local authorities have made it a condition of license that all taxis are equipped with ‘calendar controlled’ taximeters in order to further protect the public from unscrupulous drivers charging the incorrect tariff. However, the fact local authorities need to set taxi fares is market distortion, albeit a distortion to ensure the public is protected.

The natural impact upon the 'open competition' aspect, as mentioned by Mr. Percival, is the requirement of this type of 'market intervention', this in itself proves the market is very far from being subject to 'open competition' and the reason it isn't is to protect the public.

Further market interventions, such as local policy ensuring either all or a percentage of vehicles are 'wheelchair accessible' additionally distort the free market principle. The market is free – *except you must drive this type of vehicle and charge this price?*

Experience with taxi deregulation in the Netherlands led Ambrosius Baanders, ECORYS and Marcel Canoy, ECORYS and TILEC, University of Tilburg¹² to state;

"It is clear that the policy objectives were not met in the ten years of deregulation, particularly in the street taxi market in the main cities. Contrary to the expectations of the policy makers, instead of going down, the fares went up much faster than the inflation rate, in the main cities trips and passenger kilometres went down and undisciplined driver behaviour became a very serious problem."

As theories go, we would naturally expect regulated areas to have higher fares than deregulated areas – as a business cost the 'plate premium' would be extremely likely to be factored into fares. License premiums are mentioned at 9.16, 9.32, 9.34, 17.3, 17.18 and 17.20. However, the existence of a 'premium' has no impact upon the fares charged by taxis –evidence gathered (and supplied to the LC) by the NPHA suggests fares in deregulated areas are higher than regulated areas.¹³

The belief that a deregulated area has a better taxi service than a regulated area is one with little empirical evidence. As Kopp mentions in his paper;

"de-regulation leading to more entry reduces the waiting time while at the same time increases average producer costs by increasing the idle capacity."

The LC mention at 17.18;

We recognize that any change in the law in this regard would have a significant impact on those members of the taxi trade who may have invested considerable sums in their taxi licence and relied on it, for example, as a retirement fund.

The LC alludes to no compensation being paid for any loss of investment as recommended by the 'OECD' also known as "the rich men's club"¹⁴, turkeys don't in general vote for

Christmas. Whilst our association has little time for those who purchase taxi licenses with a view to them being an investment as opposed to a working business. We similarly acknowledge there are numerous taxi owners across the country paying for the purchase of their taxi businesses. If the market were to be deregulated there is little doubt those currently paying would suffer extreme hardship.

The Irish Times reported in November 2010¹⁵ *“up to 34 drivers had taken their lives in the previous two years”*.

The type of hardship created in Ireland was created by a system not considering the socio economic realities of taxi deregulation – this is why when the LC (and others) come out with such casual phrases as *‘if you can’t stand the heat get out of the kitchen’* it is treated with such derision. The reality is that many will eventually leave the kitchen – but they will battle on to the bitter end before they depart– at the cost of marriages, extreme hours and sadly even lives in order to try to make their businesses a success.

To our knowledge there has been no formal study of the effects of taxi deregulation in the UK – from either the point of view of new entrants or incumbents in the trade. Studies in the UK tend to be about the theories of deregulation in respect of almost doctrinal benefits to the taxi user. A study from the US¹⁶ cited numerous socio economic realities of driver hardship, these included;

- Drivers working excessive hours for poor remuneration
- No social or domestic life
- Fatigue
- Job stress

It is of course instructive to note that the LC do not appear to have included evidence gathered from Ireland in relation to the findings of the ‘taxi hardship panel¹⁷’, an independent panel that was set up when the difficulties of deregulation finally hit home to the Irish government. Naturally, the LC resolutely working to a deregulatory objective, hasn’t seemingly considered this type of evidence, so it was presumably ignored. It was far

easier to quote Sean Barrett¹⁸, who is to Irish taxis, what Dr Hannibal Lector was to the catering industry.

Speaking with colleagues in deregulated areas, deregulation forces drivers to rely upon private-hire radio circuits – the effects of this are to the disadvantage of both the driver – who may wish to work purely the rank and street hail market but is forced by economic circumstance to source more work via a radio circuit – and the passenger – in many areas private hire radio circuits offer a lower fare than ordinary hackney carriage fares – experience shows the private hire rates increase to match the taxi rate of fare – thus depriving the passenger of choices in respect of prices.

Carlisle is one example – prior to deregulation in 1994 there were upwards of 6 private hire companies within the city – all charging different rates and catering for different clientele. Within 2 to 3 years of deregulation many private hire drivers had changed their vehicles for taxis - the residual effect was that all vehicles charged the same fare regardless of radio circuit- thus depriving the customer of market choice.

For the reasons cited above we believe there is sound rationale why local authorities should have at least the ability to control taxi numbers within their area. Other reasons will be similarly cited within this paper.

A happy conspiracy?

For whatever reason, the Office of Fair Trading (OFT) launched an enquiry into the UK's taxi regulations on 21st August 2002¹⁹.

The subsequent enquiry went down in the annals of taxi history; the OFT enquiry was rebuffed by the House of Commons Transport Select Committee²⁰; whose findings were similarly rebuffed by the OFT²¹; whose rebuff was rebuffed by the select committee²².

The government of the day, subsequently accepted the OFT report under the guidance of the Department for Transport (DfT). However, the move the government undertook was to ensure it was considered best practice not to limit taxi numbers – ultimately they decided to leave the final decision to local authorities who were considered best place to decide.

The report the OFT produced in 2004 mentioned international comparisons²³, similar to how the Law Commission have cited international comparisons in their consultation.

Like the Law Commission, the OFT didn't cite the socio economic realities of taxi deregulation, in fairness to the OFT, the accumulated evidence, particularly that from Ireland, wasn't as apparent in 2003 as it is now.

Since the OFT enquiry, with the government decision in respect of best practice guidance and taxi regulation, the number of local authorities that have deregulated taxi numbers has increased.

There is however little empirical evidence that the deregulated markets are more effective than regulated ones, although numerous local authorities have been obliged to re-regulate taxi numbers following advice from the police.

The above being stated, there are two pieces of highly significant evidence that have been ignored.

Firstly, recent studies by the National Private Hire Association, a respected trade body, appear to suggest areas with an abundance of taxis, deregulated areas, have higher cab

fares than regulated ones. This evidence was unsurprisingly sent to the law commission, but not published or seemingly even considered.

Secondly, the OFT study of 2003 contained one particular annex, annex c²⁴, the evidence contained in this annex was not wanted by the OFT, it proved customers in regulated areas were better served by taxis than those on deregulated areas.

This evidence was similarly ignored by the Law Commission, however the LC did choose to quote the bits of the OFT report that they did actually like (because presumably it serves their purpose).

When you're working to a political theory, evidence contrary to your goals cannot be considered.

The other attributed costs, proven in Ireland, costs to the healthcare system due to excessive hours with associated illnesses such as strokes, hypertension, high cholesterol and heart problems, stress, anxiety and panic attacks, depression, asthma, colitis, back problems, and fatigue were similarly not deemed worthy of consideration.

Bankruptcies with the 'ripple-on' effects of debt have equally been neglected to be worthy of study, although there is anecdotal evidence to suggest that taxi finance companies have refused finance in certain deregulated areas which have been regarded as 'black-spots', Milton Keynes being one such example. The mere fact that no taxi finance companies appear to have been approached for this type of evidence is instructive.

The conspiracy at this point does appear to be a little weak, however, a Freedom Of Information (FOI) request has uncovered evidence of a meeting between the OFT and DfT on the 16th November 2009²⁵. It is not disclosed which officials of either the OFT or DfT were present at this meeting.

The meeting notes raise some highly controversial issues. First thoughts wonder why the OFT would wish to see the DfT exert pressure on local authorities. This was and remains, contrary to government policy.

It is obvious from the notes the OFT were continuing their political assault on the regulation of taxis, the notes contain highly controversial topics alongside the type of language being used that the OFT wanted pressure exerted on local authorities to lower taxi fares – in the OFT’s view they were too high – despite no evidence suggesting this was true.

Naturally, how taxi fares are set has never been seriously considered – so for the OFT to presume they are ‘too high’ is merely guesswork – a devised formula could alternatively suggest fares are too low.

Whether or not the DFT were complicit is something that will never be known, the fact the meeting took place and only came to light as a result of an FOI is in our opinion highly instructive.

We’re all conspiracy theorists now

A number of the law commission proposals look suspiciously like those proposed by the shadowy organisation now called Local Government Regulation (LGR). Amongst their solutions to the various problems surrounding the taxi trade they advised the transport select committee²⁶ to; (at 5.1)

“the Government considers adopting national standards for certain key conditions which do not require local consideration.”

At 5.2;

“Alongside statutory national standards, joint enforcement agreements would be welcomed, which allow licensing enforcement officers to enforce vehicles which have been licensed in other areas.”

At 5.3;

“Many licensing authorities would also welcome fixed penalty notice (FPN) powers, which would give licensing enforcement officers an instant control measure to ensure drivers were adhering to locally set conditions.”

They then went on to certain other issues, these started with 6.1;

“Restricting the number of hackney carriages in an area (often referred to as quantity restrictions). At present approximately 100 local councils continue to restrict numbers. This is currently a local political decision.”

Points 6.2, 6.3, & 6.4 covered driver training, CRB checks and airports.

All of the above points appear to have the approval of the Law Commission and are included within the ‘consultation’ documents, a rather startling coincidence.

LGR met with the DFT on 12 January 2010, 17 February 2010, 9 March 2010, 22 June 2010, 23 August 2010, 22 November 2010, 7 December 2010, and 21 February 2011. Eight meetings in thirteen months with ‘taxis and private hire’ cited as the topic of the meetings, no meeting notes were taken.

To add a little more to all these ‘coincidences’. Unite the Union, a little upset by the ongoing situation (and by ‘ongoing’ read the last 30 years) with Sefton licensed PH vehicles sitting in Liverpool awaiting pre bookings. Unite actually made no secret of their desire end this particular cross border debacle. They duly met with the Transport Secretary, Norman Baker, on 4th October 2010, again, no meeting notes were taken – although it is safe to presume Unite must have advised the transport secretary that they had organised a petition and intended to present it to the House of Commons Transport Select Committee.

Sadly, Unite the Unions own ‘in-house’ newspaper²⁷ isn’t too specific on dates, they do report on a presentation to Louise Ellman (chair of the Transport Select Committee) of a 3,400 signature petition shortly after their meeting with the Transport Secretary, this was

followed by letters of support from various MP's at the beginning of November 2010 making reference and giving support to the Unite petition.

It is reasonably fair to presume the Unite letters to MP's were sent in October, at least two weeks before the replies of MP's.

Meanwhile, DFT officials secured a meeting with the Law Commission, this took place on 4th November 2010²⁸, the meeting outlined many of the problems which would eventually be covered by the transport select committee, meeting notes suggest this was a preliminary meeting regarding a 'possible project', the DFT would contact the Law Commission "within the next few weeks" advising if they would fund the 'application for our project'. Released FOI's appear to suggest the 'few weeks' turned into a few months, as the next meeting took place on 17th May 2011²⁹. Due to some rule of protocol the only civil servant mentioned in dispatches from the DFT was a certain Anthony Ferguson – who explained the government position as wanting one of a 'deregulatory' approach with a 'localism' agenda.

At no stage in any correspondence released is there a single reference to the 'red tape challenge' which Mr Ferguson allegedly assured Unite Union was the reason behind the Law Commission being invited into the arena. Indeed, the references to buses and taxis on the 'red tape challenge' website seems to have attracted a massive 297 responses³⁰, a proportion of which concerned purely buses, a further proportion of which were multiple responses by the same people. The expression 'cranks' could be used and in many respects it would be entirely inaccurate.

All of the above have been brushed off as 'coincidences', because, presumably, these coincidences do happen.

Was it a sheer coincidence within one month of Unite the Union meeting with the Transport Secretary that his department had preliminary discussions with the Law Commission? Was also a coincidence that nobody from the DFT, at least in respect of

information received via FOI's, apparently thought it would be wise to contact the transport select committee advising of government intentions?

Norman Baker told the Select Committee on 15th March 2011;

"I have asked the Law Commission in fact whether they would consider this as one of their project areas to look at, which is, hopefully, an interesting and successful way of dealing with this matter, because it is quite complicated."

What the transport secretary didn't say, at least in respect of the released FOI's, is that all they appear to have done is make a few preliminary enquiries, that isn't actually the same as *"I have asked the Law Commission in fact whether they would consider this as one of their project areas to look at"*. So either, the DFT hasn't disclosed all the FOI's that were requested, or the Transport Secretary wasn't being entirely honest with the select committee.

As stated above, the A number of interesting points appear to be raised in meeting notes between the Law Commission and DFT on 17th May 2011. There was for example no reference to the transport select committee, which is quite bizarre considering the job they were doing. It perhaps suggests whatever the select committee wanted it would not affect law commission involvement, which you might have thought would have been mentioned in the meeting of 4th November.

The Law Commission was seemingly very keen to ensure *'payment should not be before July when the project officially kicks off'*. The Transport secretary's words would appear to suggest there had been agreement; however, there was nothing in any FOI.

All of this is to do with 'red tape' – which is seemingly apparent as much in Whitehall – as much as it is within local government.

Naturally, we could be mistaken, but I would have thought during the Ministers presentation to the NTA conference during late October 2010 in Sunderland, there would have been mention of his department contacting the Law Commission. The minister sent a DVD presentation to save on money – a concern they didn't appear to consider in respect of a (Law Commission) enquiry running practically hand in hand with the select committee enquiry. So presumably, he wasn't aware – which again raises questions as to what's going on in the DFT – it would seem we have a case of 'the tail wagging the dog'.

The rather bizarre impact assessment

According to the imaginatively titled HM Government document “*How to do an Impact Assessment*” an Impact Assessment (IA) is both:

- i. A continuous process to help think through the reasons for government intervention, to weigh up various options for achieving an objective and to understand the consequences of a proposed intervention; and*
- ii. A tool to be used to help develop policy by assessing and presenting the likely costs and benefits and the associated risks of a proposal that might have an impact on the public, private or civil society organisation, the environment and wider society over the long term.*

We have already made our concerns known in respect of the Law Commission having little idea what the turnover of the taxi and private hire industries are; the guesses appear to vary from £1.4 billion to £8.8 billion, not exactly reassuring and potentially out by a whopping 500%.

The concerns raised above appear to continue in various other parts of the IA.

Reduction in number of taxi driver assaults

It is important to recognise that drivers too are at risk. In the past 20 years, 63 taxi or private hire drivers have been murdered. Whilst this figure does not distinguish between those who were killed whilst working and those whose deaths were not linked to the trade, it is nevertheless of great concern.

Drivers are frequently victims of assaults and robberies. If the Secretary of State and Welsh Ministers choose to introduce more stringent safety requirements our proposals could allow for increased driver safety measures. Furthermore, national training requirements should, we suggest, include disability training, and could also better equip drivers to deal with challenging environments and avoid conflict.

In the course of the main LC document, some 253 pages in length, the word ‘assault’ is mentioned twice; on each occasion in paragraph 8.3 and in respect of drivers assaulting passengers. The word ‘safety’ is however mentioned on many occasions, if I were a gambling man, I’d put a fairly hefty bet on the word ‘safety’ being the most used word in the

entire document. It is instructive to note the document titled “Taxi drivers’ safety and health: A European review of good practice guidelines”³¹ has not been mentioned by the LC despite their European tour.

The word doesn’t extend towards much in the way of driver safety – which sadly appears to suggest the LC have little interest in this issue, despite the feigned interest shown in the IA. It is therefore difficult to understand how the LC can state: *“If the Secretary of State and Welsh Ministers choose to introduce more stringent safety requirements our proposals could allow for increased driver safety measures.”* when they don’t actually suggest anything for statute.

The following is stated in the IA in respect of Safety Standards;

Improved safety standards

Safety is a key justification for the licensing system as a whole yet there are no national minimum standards in respect of issues such as driver and vehicle safety standards. Disability groups have highlighted significant problems in ensuring accessibility and the safety of disabled passengers. Disability groups have told us that most disabled persons have to travel without proper restraints on a daily basis. This is not only unsafe, but uncomfortable and at times undignified. These problems do not only affect wheelchair users: deaf passengers may have difficulty communicating with the driver where the vehicle is fitted with a partition, and blind passengers have concerns about being unable to read taximeters.

Furthermore, standardised vehicle safety requirements and a standard frequency of checks should give rise to a general improvement in consistent safety standards.

Currently, a hire vehicle which operates illegally (for example, a PHV which plies for hire) risks invalidating its insurance. The clearer definition of plying for hire we propose, along with greater clarity on which operations and services require licenses, could significantly reduce the incidence of passengers travelling in effectively uninsured vehicles. In these instances their only means of recourse is to the Motor Insurers Bureau, whose compensation is subject to limits.

Minimum national standards ensure the reputation of the taxi trade as all providing to at least a common standard. This ensures increased user confidence and provides the basis for increased user demand. The average value for the prevention of a road casualty in the case of car and taxi occupants has been estimated at £39,449, in 2011 prices.

This means that if, as a consequence of the Secretary of State's and Welsh Ministers' national safety standards, one accident was avoided (a conservative estimate), there would be an annual saving of £39,449, two accidents = £78,900 (best estimate) and three accidents avoided per year would be £118,347 (high estimate).

Annual savings = £78,900 (best estimate)

NPV over 10 years = £656,180

We discuss national safety standards within this paper, we point out the Law Commission appear to have forgotten to inform us of the individual local authorities where the necessary checks and balances towards drivers are not carried out. As we mention in this paper, we are not aware of any, although we eagerly await this list of failing authorities. This additionally applies to vehicle standards.

The LC allude to cases where passengers have hired illegal vehicles and found after injury they were not insured, we are not aware of any case involving any licensed vehicle where insurance companies have refused to indemnify the passenger. We ask that evidence is made available of these instances.

The LC state at point 5 in their impact assessment;

Reduction in the number of assaults of taxi users

Our proposals should have the result of reducing the number of unlicensed vehicles and drivers, as well as the number of touts. Better enforcement will act as a deterrent, encouraging providers to work within the regulated sector, and will allow greater targeting of rogue traders. Removing confusion around which vehicles should be licensed will also ensure more vehicles which ought to be licensed will be, for example limousines. Thus fewer passengers should be carried by wholly unlicensed drivers, who are likely to be much more dangerous to passengers than safety-checked licensed drivers. Although the move to allow enhanced CRB checks will have gone a significant way towards improving passenger safety where drivers are licensed, we believe that our proposals will continue this trend.

Offences against passengers most commonly include sexual offences, assault and theft. Taking sexual offences as an example, the estimated total cost of £38,359 (in 2011 prices) provides a measure of the

economy-wide benefit of preventing sexual crimes. If 111 cases have been reported in London alone, which accounts for about 30 percent of all taxi services, nation-wide the figure must be closer to 400 reported cases.

It is clear from the first sentence that the LC do not have any idea if their proposals will actually lead to a reduction in unlicensed vehicles and drivers – they suggest better enforcement, yet they mention in numerous parts of their document that enforcement is costly and often not carried out due to lack of funds. They similarly fail to suggest how funding for enforcement will be attained.

It doesn't appear the LC has done any degree of suitable research into this serious subject, they are rather more simply citing figures (obtained by someone else) from London and using these as a gauge for the rest of the country. Bearing in mind there are only about 40 constabularies in England & Wales, we wonder how arduous a freedom of information request could possibly have been. Strangely at 8.3 they state;

8.3 Transport for London reported 111 cab-related sexual offences in 2010 alone, and Greater Manchester Police recorded 98 offences of rape or sexual assault linked to taxis and private hire vehicles in the same period.

The infamous case of John Worboys illustrates the extent to which taxi services can be abused by sexual predators. The black cab driver was convicted of 12 sexual assaults in 2009 but police believed this was only a fraction of the actual offences he had committed. There are also frequent allegations of theft, assault and other offences.

The LC stated; “nation-wide the figure must be closer to 400 reported cases” are based upon London which has some 73000 licensed vehicles, yet the Impact Assessment doesn't seem to state (although the document does at 8.3) Greater Manchester had a reported 98³² cases; with some 12000 licensed vehicles. This compares to Merseyside where 8800 vehicles are licensed across the area a cited figure of 22 offences³³.

If they had used the Greater Manchester figures instead of London, they would have, using the same methodology, suggested nearer 1900 cab-related sexual offences, which is obviously a startling number and totally unrealistic. Again, whilst the lack of research

carried out is quite galling, the simplicity of obtaining it in our view gives a major flaw in the impact assessment. We address this at page 102.

The following is stated at point 6 in the LC IA;

6. Increased employment in areas that remove entry controls

The removal of entry controls has the further benefit of encouraging market growth as latent demand translates into industry activity as the number of taxi users increases in direct response to improved provision.

The increased supply of taxi services in areas that remove entry controls occurs as a result of increased vehicles being made available to ply for hire, pick-up at ranks or indeed be booked through various means. Increased industry employment occurs as those previously prevented from entering the market are now free to enter. The desire to enter is informed by the potential for work as signalled through the license premium which was previously secured in areas with entry restrictions. Increased taxi availability potentially triggers a customer response from those who had previously suppressed demand and made use of less satisfactory forms of transportation. Taxi drivers potentially benefit from not only access to a previously restricted market and a share of the monopoly rent which accrued to a small group but also from the increase user demand as taxis become visibly more available and provide an obvious means of alternative transportation.

The lack of research and dogmatic approach by the LC is again highlighted here. The experience of deregulation in some areas has been one where private hire drivers simply switch codes to hackney carriages; thus there is little in terms of ‘increased employment’; indeed certain areas, Carlisle being one obvious example the number of licensed vehicles actually dropped between 1994 and 2012.

The LC state; *“Increased industry employment occurs as those previously prevented from entering the market are now free to enter.”* The true facts are those entering the trade are already in it.

The Carlisle experience isn’t a complete picture; as mentioned elsewhere in this paper, the number of licensed vehicles in both Liverpool and Cardiff grew dramatically after deregulation.

The point being, it is unfair without doing research to make such a broad assessment of 'employment' being created.

The assumption that increased availability 'potentially' triggers a customer release is a rather peculiar thought, by the same equation if 'Greggs *the home of fresh baking*' supplied an extra tray of 'sausage, cheese & bean melts' the LC appear to believe the extra supply of melts will 'potentially' create a demand.

The LC use words that are provocative to those of a pro deregulatory disposition; 'Monopoly' is one obvious example; however the context in which it is used in point 6 is patently attempting to create a misconception; there is no grain of evidence that latent demand will turn into actual demand. The assumption is merely an assumption.

The following is stated at point 7 of the LC IA;

7. Improved social inclusion

The extent to which the removal of entry controls translates into wider benefits depends on councils' approach.

Increased numbers generally will improve access to people on low income – however the extent to which the benefit extends to those with particular needs, for example with limited mobility, depends on the type of increased supply that becomes available.

If, for example, zoned licensing were to be introduced, wheelchair accessible vehicles and vehicles restricted to working in particular areas would be made increasingly available. Furthermore, the opening up of the private hire market could encourage providers to diversify and expand. Placing the private hire industry on a national footing could promote access to people in more remote areas, as the most practicable way to meet their requirements may be through sub-contracting or using a driver and vehicle licensed in another area.

The LC rationale behind zoning has little to do with any reality we are aware of – it would to all intents and purposes be a rather silly idea – however it is reasonably clear, although not suggested by the LC that regulations would be required in order to create a demand for licenses.

If for example a local authority was aware of a demand in a rural area (and heaven knows how it's going to do that without some type of survey) it could zone its district, however, if an area where to be completely derestricted it is obvious the potential licensee would wish to work the perceived busier area, in all probability this would not be the area desired by the local authority.

In order for this to happen a local authority would need the right to restrict licenses.

The LC, as part of a grand finale, present us with a number of assumptions, these are as follows;

RISKS, ASSUMPTIONS AND SENSITIVITIES

Assumptions:

All the assumptions that underpin specific cost/benefit estimates are indicated alongside the relevant discussion. However there are broader assumptions that inform our approach to the impact assessment and these are as follows:

- 1. Latent demand responds to improved provision in taxi services and this facilitates the further increase in taxi demand;***
- 2. The groups identified in the consultation paper as potentially excludable from the licensing regimes would all be excluded (e.g. driver guides, childminders, volunteer drivers);***
- 3. Current arrangements regarding government funding for licensee training remain in place.***

Risks:

- 1. Entry controls are not fully removed and the full benefits are not delivered particularly as it relates to reduced consumer detriment through reduced waiting time - medium risk;***
- 2. Councils do not pursue a managed approach to licensing. This carries the reputational risk to the taxi industry if experienced drivers leave and less experienced drivers provide an inferior service - medium risk.***
- 3. The Secretary of State and Welsh Ministers may choose to exclude fewer groups than indicated in assumption 2. This is a low risk.***

- 4. *There is a high risk that given the current economic climate funding of licensee training is no longer available – in which case licensee will be required to self-fund.***

Sensitivities

All cost/benefit estimates that rely on a range have been indicated throughout the impact assessment.

The LC assume their theory of latent demand actually works; of course they could find evidence of this if they tried; numerous local authorities have deregulated since 2003; a growing number have reregulated due to market failure.

It is naturally alarming to learn there is a high risk of funding being cut in respect of training – the expression ‘self-fund’ is not mentioned by the LC at any stage within their document, it is therefore instructive consultees would need to study chapter and verse of each LC document provided.

The health and wellbeing portion of the Impact assessment is somewhat confusing.

Health and wellbeing

This impact assessment has been undertaken using the screening questions identified in the Department for Health document “Health impact assessment of government policy”.

Will the proposal have a direct impact on health, mental health and wellbeing?

Our proposals will improve mobility for disabled and elderly people, as well as promoting social inclusion, independence and participation. We propose driver training which would specifically cover working with disabled people and persons with reduced mobility. Many disabled passengers complain of a significant degree of danger, discomfort and loss of dignity when travelling by taxi or private hire vehicle. Our proposals on driver training would increase awareness of how disabled passengers prefer to travel, the proper restraint of wheelchairs and how to use specialist equipment.

Standardised conditions of licence for private hire drivers would lead to a consistent approach to medical requirements across England and Wales. These standards would be based on consultation not

only with the industry but also with relevant specialists, ensuring an appropriate and proportionate response was taken to medical conditions, and potentially allowing a greater number of people with health problems to undertake this kind of work.

Will the policy have an impact on social, economic and environmental living conditions that would indirectly affect health?

Our proposals will improve employment prospects in those areas which currently restrict the number of taxi licences available. Whilst there is the possibility that they will increase emissions, it is hoped that market forces will limit the potential for expansion. In doing so it will limit wastage and people leaving the market and becoming unemployed.

Will the proposal affect an individual's ability to improve their own health and wellbeing?

Our proposals will allow people, in particular disabled and elderly passengers, to travel more freely. This could allow them to improve their own health and wellbeing, for example by allowing them to shop in a wider range of locations or to access previously unreachable services.

Will there be any change in demand for or access to health and social care services?

The opening-up of the private hire market and removal of restrictions on taxi numbers in those areas which currently restrict taxi licences will promote greater access to health and social care services. There will be no direct change in demand for these services.

Will the proposal have an impact on global health?

No.

The LC failure to consider the socio economic impact of taxi deregulation leaves us with health and wellbeing as an obvious concern. Our paper mentions the report of the 'taxi hardship panel' set up in post deregulation Ireland where various illnesses were cited as the side effects of the deregulatory policy. We also cite a document from the US which established similar findings. Again we point out that we find the omission of such evidence as highly alarming.

The failure to recognise deregulation leads to excessive hours and the same failure to recognise the dangerous impact this may have upon passenger safety is of equal concern.

The LC state a belief that more vehicles will be available to cater for the disabled, yet there is little proof of this; indeed local authorities will still be left to determine their vehicle policies. We can surmise that no additional accessible vehicles will come from the private hire industry – despite LC satisfaction a mere 2% of the nations private hire fleet are accessible.

The LC states the following above;

Our proposals will improve employment prospects in those areas which currently restrict the number of taxi licences available. Whilst there is the possibility that they will increase emissions, it is hoped that market forces will limit the potential for expansion. In doing so it will limit wastage and people leaving the market and becoming unemployed.

The above paragraph appears to contradict itself numerous times, it is difficult to fathom, we have been told in many areas that a free market is the best way of delivering goods and services – yet it is now stated these same market forces will limit expansion – indeed we have been told in the documents that amongst the reasons for permitting cross border is because some businesses will want to expand. LC attempt to hammer home improved employment prospects – yet as we state, there is no evidence of this occurring.

The LC similarly appear to fail to cite any impact upon the wedding car or funeral car industries upon them being licensed, they have additionally ignored the possible implications of volunteer drivers being licensed (as they should be if we are to deal with the matter fairly).

Problems with the L.C. Documents

Fares

At 1.16 the L.C. state;

*Thirdly, on the private hire side, we make rather more far-reaching proposals. We provisionally propose that the Secretary of State and Welsh Ministers should set national standards for private hire vehicles and drivers, and that licensing authorities should not have the power to impose higher standards. **This reflects our view that the pre-booked market works reasonably well as a competitive market, and so there is no need for the state to step in to guarantee quality or control fares.** The granting of licences and enforcement would continue to be a function of the licensing authority. The national standards for private hire vehicles should be set at the same level as the minimum standards for taxis. In both cases, the power to set standards would allow for different standards to be set for different descriptions of vehicles.*

Sadly the highlighted statement does appear to be somewhat at odds with a campaign by the Office of Fair Trading in November 2008 regarding price fixing by private hire companies³⁴.

However the above does echo the warnings of Adam Smith in his book the Wealth of Nations in 1776, although we would contend he was perhaps not making particular reference to minicab proprietors;

"People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices."³⁵

Our association disagrees with the rationale outlined from 2.30 to 2.47 that taxi customers are at a disadvantage in respect of the hailing of taxis and the fares charged – fares are set by local authorities in order to protect the customer and not put them at a disadvantage when they hail cabs.

Paragraphs 4.88 to 4.93 mention the relationship between private hire operator and driver.

The L.C. appear to allude to any potential for private hire fares to be set locally invariably leading to an increased cost- at the same time they allude to local authority conditions resulting in increased private hire fares.

By its very nature 'private-hire' covers a multitude of differing business models; these include minicabs, minibus type operations, executive hire, airport specialists etc. However, we do feel the emphasis and rationale of the L.C. documents are more specifically aimed at the minicab market.

We are surprised that whilst taxi fares were mentioned on page 19 of the document, there is little explanation as to how local authorities arrive at the actual fares. We are equally surprised there has been nothing offered in the way of explanation as to how minicab fares are determined; the obvious rationale is that minicab fares are determined by market forces.

We would contend the L.C. rationale (or lack of rationale) in respect of minicab fares is false; invariably minicab fares are perceived to be lower than taxi fares.³⁶

At 1.26 the L.C state;

The current legal framework has also been said to fail disabled passengers. In February 2009 a 14-year-old Birmingham girl died during a taxi ride home because her wheelchair was not properly secured.

Disability groups have told us that most disabled persons have to travel without proper restraints on a daily basis. This is not only unsafe, but uncomfortable and at times undignified. These problems do not only affect wheelchair users. Deaf passengers may have difficulty communicating with the driver where the vehicle is fitted with a partition, and blind passengers have concerns about being unable to read taximeters. Our provisional proposals include questions on how to promote safety for disabled passengers as well as compulsory disability discrimination training for taxi and private hire drivers.

Our association dispute the above point. The existing legal framework is perfectly adequate in respect of all passengers; numerous drivers have been successfully prosecuted for failing to secure wheelchairs over the years, these have invariably led to licenses being suspended or revoked.

On 11 October 2010 at Walsall Magistrates Court;

A taxi vehicle driver was convicted of causing, or likely to cause, danger by failing to secure a wheelchair in a hackney carriage. He was fined £275 and had his DVLA licence endorsed with 3 points. He was ordered to pay costs of £600 and a victim surcharge of £15.³⁷

In addition the following story appeared in the Plymouth Herald during November 2011;

A TAXI driver admitted failing to secure a passenger's wheelchair.

Mark Smith, aged 51, did not take all reasonable precautions to ensure the safety of the passenger on February 15. City magistrates gave Smith, of Clittaford Road, Southway, a six-month conditional discharge and ordered him to pay £200 costs to Plymouth City Council.³⁸

The above articles were easily found on the internet, we are surprised they were not also found by the LC. We note the L.C. state claim to have been contacted by disability groups, yet we are surprised to see nothing in the way of citations or annex attachments.

We dispute many of the points raised in 1.27

Limousines are a prime example of a licensing grey area. Although users will have little trouble finding a willing provider of such services it may be much more difficult to determine whether they have been properly vetted and licensed. Although the Department for Transport recommends that small limousine services should be covered by private hire licensing, in practice many are not.

This is because local licensing conditions may be impossible for the vehicles to satisfy (many are imported and have left hand drives, for instance, or fall foul of prohibitions on tinted windows). Such limousines continue operating but lie outside any form of regulation unless they seek to be licensed as a small public service vehicle with the Traffic Commissioners. The Traffic Commissioners' checks however

currently do not include, for example, Criminal Record Bureau checks, which are a key component in ensuring passenger safety.

In recent years, there have been a number of high profile limousine accidents reported in the national press; most prominently, the case of a group of teenage girls travelling in a defective limousine which caught fire. The vehicle lacked a certificate of initial fitness, a test certificate and appropriate insurance cover.

Our association disagrees with the L.C. contention that the licensing of limousines is a 'grey area'. We would additionally contend 1.27 appears to contradict itself at 3.80 where the procedure for licensing limousines under VOSA is set out. We believe the law is perfectly clear on the issue of limousine licensing; we are disappointed the L.C. has not provided any evidence of limousine applications being refused by local authorities.

The provisional proposals and questions the LC have raised appear to be in a tongue which is beyond the ken of many a man. Although there are too many examples to cite individually, the following are a mere sample;

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. (Page 164)

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets". (Page 175)

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of "arrangements made in a public place" instead of "plying for hire"? (Page 182)

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. (Page 183)

We are at a complete loss how the LC expects working cab drivers and associations to fully understand such questions. They are difficult enough to understand for those of us who are *au fait* with taxi and private hire legislation and the many vagaries, yet for some reason the LC appear to expect the general population to understand it – the LC did produce a simplified version of their consultation at a later date.

Ireland

The issues surrounding taxi deregulation in Ireland are covered in a breathtakingly poor and one sided manner by the law commission; a mere 7 paragraphs are dedicated to what surmounts to be a total failure of taxi regulation, although the LC spin on taxi deregulation in Ireland appears to be one of outstanding benefit to the consumer (as mentioned at 9.50 in the LC document where they state;).

The main consumer benefit of de-restriction was, inevitably, reduced waiting times. The number of consumers waiting less than five minutes for a taxi increased from 23% in 1997 to 50.3% in 2008. Demand for hail and rank services rose, but the preference has now returned to pre-booked vehicles. It is, however, notable that journeys by passengers in wheelchairs have decreased, although it is not clear that this is directly linked to de-restriction.

Sadly, there is no citation attached to the statement at 9.50, we therefore have little chance of analyzing the LC's presumptions.

We mention Ireland in various sections of this paper, as the issues of deregulation have seemingly been neglected to have been mentioned by the LC.

The LC state at 9.52;

Although the industry has been very vocal about the effect of de-restriction on earnings, studies show that overall earnings have not decreased significantly.

The lack of evidence to back up this presumption is again instructive.

The LC state also in 9.52

The Irish Government is currently undertaking a review of taxi regulation.

We are then offered a link to an article from the “Irish Examiner” newspaper. Again the LC didn’t appear to believe it necessary to point out to readers that the article gave reasons why the Irish Government were undertaking a review. The LC chose to describe the Irish Government as ‘undertaking a review of taxi regulation’.

The reasons behind the review appear to be failings within the deregulated taxi system, the Irish Examiner stated;

Mr Kelly said gardaí must take a leading role in taxi industry enforcement and not leave it to the nine enforcement officers in the regulator’s office. He also said the system of monitoring and regulation of licences is not stringent enough, and that criminals with serious convictions are being allowed to operate legitimately.

The LC State;

The Irish National Transport Authority has also imposed a temporary suspension on the issuance of non-wheelchair accessible taxi and pre-booked only vehicle licences in order to even-out numbers.

The above statement leads to the following citation numbered ‘74’;

It does not appear that this temporary suspension has been formally announced on the National Transport Authority’s website or reported in the media – we were informed about it during a telephone call with the Irish National Transport Authority on 27 September 2011.

Whilst we do not doubt the LC actually spoke with the Irish National Transport Authority on 27 September 2011, we would advise that Ireland has not temporarily suspended the issue of taxi licenses. Indeed up until May 2012 they were offering a subsidy to people prepared to purchase Wheelchair Accessible Vehicles. If such evidence was offered by the taxi trade – we have little doubt the LC would have ignored it as anecdotal.

Problems with the Law

Chapter 8 of the document is dedicated to numerous issues pertaining to problems with the law, these cover Public safety, No national minimum standards, Enforcement, Novelty vehicles etc we will point out flaws in the documents and naturally offer our view.

Public Safety

The issues surrounding public safety are highly important, although in many respects this is an easy 'off the cuff' statement.

We raise concern at the mention of John Worboys³⁹, this citation, certainly in respect of him being a licensed taxi driver without similar examples from the private hire industry (and there are many) is in our opinion partial. For example, the headline '*No Woman is safe in a minicab*⁴⁰' could have been cited in a case where recorder Michael Sayers, QC, said those hiring a private 'taxi' simply had no way of knowing the driver's background.

Our association will be the first to acknowledge that a predator, be they licensed private hire or licensed taxi, are one predator too many, but we see the citation of Worboys alone as partial.

We would also wish to state the source cited by the L.C. (the guardian newspaper) wrote a piece at a later date than the L.C. citation, this piece implicated police errors⁴¹ these were not acknowledged by the L.C. and in our view shed an unfair light on the licensing system. This source would have been easily available to the L.C. and we believe the lack of inclusion is revealing. Sadly, whatever licensing system would have been in place, it is highly likely Worboys would still have been granted a license – a fact which appears to have been missed by the Law Commission.

The L.C. similarly cite figures quoted from both the Metropolitan and Greater Manchester Police Services, however, neither service differentiates between private hire and hackney carriage; thus giving no overall indication as to the particular trade which has the largest problem⁴². Again we acknowledge rape is a rape, it is a matter of very little consequence to the victim which particular license the rapist has. Whereas the victim will be concerned as

to how the person was deemed fit and proper to obtain a license, the taxi trade are invariably interested into how such an event was permitted to happen, given all the checks and balances which are followed throughout the country.

It would seem – short of breaking the space time continuum and inventing a time machine – this area of licensing cannot be safe. – We are therefore surprised this sorry fact has not been acknowledged by the L.C.

No national minimum standards

Our association is particularly disappointed by this section as it shows the research carried out by the L.C. has been minimal. The assertions made by the L.C. are not only ill advised; in many respects they are patently fatuous.

The L.C. allude to national standards being the panacea of all the ill's surrounding taxi and private-hire licensing, yet our association cannot find a single local authority in England and Wales that doesn't have minimum checks and balances already in place; be they CRB checks for drivers or the provision of at least proof of vehicle testing.

We find this a highly significant point; if the L.C. were completely convinced national standards will be a cure all; why can't and don't they cite a single local authority that fails in respect of the issuing of licenses without doing at least rudimentary checks?

In respect of CRB checks and as the LC will be perfectly well aware, rules prior to recent changes specifically prohibited local authorities from requesting enhanced CRB checks for drivers, the standard CRB was only permitted. It is therefore a gross misrepresentation to cite the CRB as being a national standard that has failed and one which differs from authority to authority.⁴³

8.5 is one particular example, it is stated;

8.5 The lack of a common core of standards means that a driver that is refused a licence because he or she is not a "fit and proper person" following an enhanced Criminal Records Bureau check may try their luck in a neighbouring authority which may well take a different view, and perhaps on the basis of only a standard check. Licensing officers that refused a licence may then find that same individual picking up

passengers in their area. If the journeys were pre-booked then there is nothing the licensing officers may do to prevent this.

Whilst we do not doubt the integrity of the L.C. we find it disquieting the above is included within the document with no apparent example or citation being offered in respect of the point made.

It is equally mystifying that the LC have little to say in respect of dual licensing, a situation where a local authority issues a single license where the driver is able to drive either a private hire vehicle or taxi. Whilst we have reservations about these licenses, there is little doubt of their usefulness in certain areas. The LC have stated their wish for private hire licensing to be outside of the claws of local authorities in respect of conditions – yet in areas where there maybe dual licenses these conditions may be classed as arbitrary.

8.6 (quoted below) is equally mystifying, we are aware of the governments flagship policy of Localism, yet the L.C. appear to refer to localism as creative of the problems associated with ‘out of town’ hackney carriages working in areas where they are unlicensed – citing perceived lower standards. The taxi and private hire operations of a rural area are inherently different to urban locations. There isn’t a one size fits all model of licensing available that will suit the differing needs of both PH trade and PH customer, it is far better to leave the licensing requirements of all areas for locals to decide upon.

Further to the above we are surprised to see virtually no mention of Air Quality Management Areas (AQMA) in the documents, save for two sentences at 4.59 & 4.60 in relation to vehicle age limits.

The air quality in each area is the responsibility of local authorities⁴⁴. A number of areas are currently considering their air quality strategies, amongst these are York⁴⁵. It may well transpire that London (for example) needs to address the pollution omitted by its licensed fleet for the benefit of its citizens. If a national standard is in place this could well be arranged by the Secretary of State, however, due to the act being national it may have a roll on effect across the country. This type of legislation is patently ridiculous; especially

considering any derogation towards London may lead to licensees licensing themselves elsewhere, only to continue working in London.

8.6 The intense localism of the current licensing system means that areas which require lower standards, have lower fees or less enforcement may attract licensees who have little other connection with that licensing authority. This can be a particular problem for authorities that are perceived as "honey-pots", like London or Liverpool for example, which attract vehicles licensed elsewhere.

We find 8.7 equally disturbing, showing naivety towards the testing of vehicles. Current law permits local authorities to test vehicles a maximum of three times per year. Some local authorities do this on the basis of the older a vehicle gets the more it needs tested (this system is operational in Carlisle and other areas). The reasons behind these decisions are based upon evidence gathered from test sheets and subject to consultation; quite simply the older vehicles in the fleet were failing tests more regularly than newer vehicles.

Of course, the evidence gathered in Carlisle is not typical of other areas, it is therefore clearly important that locals have control of localised procedures.

8.7 There is little uniformity in the content and frequency of vehicle testing by local authorities and stakeholders have told us it varies considerably. In London, for example, mid-year MoT checks were scrapped for taxis in 2008 but kept for private hire vehicles. Different licensing authorities set different requirements for the internal condition of their vehicles, for example. Some may be as specific as determining the width of passenger seats or the size of a roof sign.

Novelty vehicles: In or out?

We believe the law is straightforward in respect of the vehicles that should be licensed. If the vehicle has below 9 passenger seats it should be subject to the private hire licensing regime. The fact a local authority maybe apathetic towards the licensing of these vehicles should not deflect from their responsibilities. Guidance is available from both the DfT and VOSA⁴⁶.

Safety for disabled passengers

This section appears to typify the confusing and repetitive nature of the consultation as we are again re-referring to statements that have already been stated. Paragraphs 8.19 & 8.20 relate to the services offered to disabled passengers. We have referred to this on previous pages of this paper. We again point out our surprise of a lack of citations in respect of complaints from the disabled community.

8.21 Lack of insurance cover

We have explored those situations where it is unclear whether a vehicle requires a private hire licence at all, or where a private hire vehicle engages in behaviour that may spill over into (illegal) plying for hire. These grey areas can have grave consequences for passengers. If a private hire driver is found to be illegally plying for hire, the journey will no-longer be insured. If the car has an accident this can have disastrous consequences for the passenger who will only have the limited coverage provided by the safety net of the Motor Insurance Bureau.

The above paragraph appears to suggest it would be in the best interests of the public to ensure all private hire vehicles have hire and reward insurance for the minority of private hire vehicles that illegally ply for hire. It would be useful if the LC could provide actual evidence of any case in the past 40 years where an insurance company has failed to give compensation to a passenger injured in a vehicle that has been illegally plying for hire.

EXCESSIVE BURDENS ON BUSINESS

Restrictive local licensing of private hire vehicles @ 8.22

Stakeholders have raised concerns about licensing authorities' imposition of over-prescriptive or seemingly arbitrary conditions, as well as conditions which place a heavy financial burden on owners, such as colour and age policies. Certain licensing conditions are a cost to the trade and may not yield a corresponding benefit to consumers. Our provisional proposals try to ameliorate this in respect of private hire vehicles by providing for mandatory standards that cannot be gold-plated by local licensing authorities. These are discussed in Chapter 16.

We believe it is tacitly unfair for the LC to describe certain conditions attached to licenses as 'arbitrary' without considering the rationale behind the original decisions or indeed citing the areas concerned. We imagine many factory owners of the early 1800's were similarly descriptive of laws banning child labour⁴⁷, yet nobody could now question the reasons behind those laws. We would point out that many of the localised decisions must be subject to consultation and debate at a local level.

One such example is Manchester City Council's colour policy in respect of private hire vehicles; this localised condition has been effective since November 2002. The main purpose of introducing and maintaining the condition was, and still is, public safety. By establishing a standard colour of vehicle, all of which carry the same style of identification stickers, the vehicles are more easily recognisable by members of the public as private hire. This is intended to avoid members of the public mistakenly getting into 'bogus' vehicles at great risk to themselves, or confusing private hire vehicles with hackney carriages and trying to flag them down.

The policy Manchester Council decided upon – in respect of public safety - will be thoroughly undermined by the Law Commission position in respect of cross border activities. At the time of writing Manchester Private Hire Companies have sourced taxis from Rossendale, Bury, Gedling, Pendle, Ribble Valley, Cheshire East & Newport – there can be little doubt Manchester's policy is being thoroughly flouted by the individuals licensing vehicles 'out of town' – our compiled statistics show Manchester as the rape Capital of the UK.

Preventing cross-border services

We believe 8.23 to 8.25 are misleading and biased in respect of cross border activities, primarily, the title of the section gives a negative impression, this being that current law prevents a service, in our view this is deliberate.

Indeed, the title of the subsection describes the activity as a 'service' which of course the activity certainly is not.

The LC are perfectly well aware of the legal position in respect of cross-border hiring's, there is nothing in law to prevent a customer calling a private hire car from another area (nor should there be).

The following is stated;

"The advent of the telephone and the internet arguably makes this kind of restriction, based on the way in which private hire services were engaged over 30 years ago, unnecessary and artificial."

Again the LC use the word 'restriction', a deliberate negative in the context of the above sentence, they additionally state the '*advent of the telephone and the internet*' in the possible hope that telephone and internet technology actually makes a difference; the obvious point is that the call or booking must be received by someone who holds a license – how it is communicated is of little consequence.

We were equally enamoured to the statement;

"The borders between different localities do not correspond with the way people use private hire services. For example, current regulation may stop an operator from providing a free-phone at a supermarket or at a hospital in a different licensing area (which may be just across the road from the operator's premises) since this can be regarded as inviting bookings out of area and is therefore not permitted."

We found the particular use of a Hospital in the description quite emotive, we would have perhaps suggested a freephone in an orphans home or animal refuge as undoubtedly they too would have similar effect. More seriously, it is instructive the LC appear to consider

that PH companies 'provide' free-phones at supermarkets, the thought seems to have missed the LC that a free-phone is invariably tendered for in a far from transparent process.⁴⁸ It also appears not to have been considered why a PH company may choose to tender for a freephone they must surely know is outside of their licensing area, or indeed the motives behind the supermarket (or hospital) for either inviting or accepting the tender.

We also found the following statement at 8.25 quite astonishing;

The "triple licensing" requirement places a serious limit to the services private hire operators may provide. Not only will certain licensing authorities not allow a provider to serve a particular locality unless they take a local licence, many licensing authorities refuse to license private hire vehicles licensed in more than one area. This means that operators may not be able to effectively serve their desired customer base.

We found the word 'serious' a tad over dramatic given the plethora of synonyms available, 'serious' is being told in casualty that you need an air ambulance to Freeman Hospital in Newcastle in a matter of minutes or you'll die.

It is a fact that a private hire operator can accept a booking from anywhere in the UK which does seem to have been sadly missed. We would ask why an operator would wish to operate in an area other than where their 'desired customer base' is actually located. A question overlooked by the LC.

Ban on sub-contracting outside of London

At 8.26 the LC state;

Under the current law it is illegal for operators outside of London to sub-contract any of their services. This means that an operator cannot ask another operator to fulfil a booking where the original car becomes unavailable or breaks down, or where it would simply be more efficient for another vehicle to undertake the journey.

The LC are quite correct in the above statement, it is a perfectly reasonable and innocent explanation of the current system, however this explanation does not appear to have any rationale with provisional proposal 41 which is not only an incorrect appraisal of current legislation, but seemingly duplicitous in the context of 8.26. It is one thing phoning a private hire operator in another area in the event of a mechanical breakdown, it is quite another for an operator to actively obtain vehicles licensed elsewhere to pay a weekly radio subscription.

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority.

Over-inclusive licensing

In 8.27 to 8.29 the LC somewhat dramatically declare that aspects of the licensing system are over inclusive;

8.27 states;

“Although the Department for Transport published guidance suggesting that such activities would typically not require a licence, this is not binding nor consistently applied.”

Again, it is surprising whilst the LC allude to some licensing regimes being over inclusive; it doesn't deem it necessary to cite examples.

8.28 refers to the voluntary sector, with private hire licensing potentially losing volunteers through the cost of licenses. They cite a document by J Rogers and S Ridley (In House Policy Consultancy), the imaginatively titled *“Review of the Impact of the Repeal of the Private Hire Vehicle Contract Exemption (4 November 2009).”*

We believe the reasons behind the LC desire to see voluntary drivers outside the scope of licensing has little to do with the safety of the travelling public and everything to do with the potential for additional costs to hospital trusts etc

We find the assertion that those who employ the services of volunteer drivers will have checks and balances in place to ensure drivers are CRB checked and suchlike – is an assertion too far – history tends to suggest that self regulation is a bit of a disaster.⁴⁹

They carry on suggesting the contract exemption should return. We find this illogical.

Barriers to entry: quantity controls

We intend to dedicate our own chapter to quantity controls in addition to what we have already written earlier. We would suggest the LC is misguided at 8.34 where they state;

“We also note that the current statutory criterion for imposing quantity controls, based on the concept of “unmet demand”, and the practice of carrying out specified surveys to support these are burdensome, costly and of doubtful utility.”

The LC prefers the market to decide, we are of the opinion that the ‘free market’ they aspire to, is anything but free for the reasons set out in other areas of this paper.

The usefulness of demand surveys does however vary. Some for example give local authorities feedback from the public about the service, any issues they may be concerned with and how they feel it can be improved. Some surveys suggest locations for additional ranking. The usefulness of these surveys to both the taxi trade and local authority have not been explained by the LC for two possible reasons, firstly they are possibly not aware of what a survey looks like, which would suggest they haven’t done sufficient research. Secondly, they are not interested in surveys because they come into the arena with a preconceived idea of how taxis should operate. They neglect to mention that surveys are not an expense of the tax payer they are paid for via licensing fees, again, this would confirm the scenarios mentioned above.

Archaic legislation stifling innovation

Again the LC uses a quite provocative and misleading sub heading for this particular section. The word ‘Archaic’ being a somewhat strange choice of wording given the far less provocative alternatives, however, if we consider the LC mission, the word is selected with the reader in mind.

The LC suggests with the sub heading that legislation has stifled innovation. It is a statement that doesn't actually stand up against fact. From two-way radio systems – to satellite communications and iphone 'apps', the taxi and private hire trade have been at the forefront of innovation over the decades – to suggest legislation has held the taxi trade back is a complete myth – one usually voiced by large private hire proprietors when they cannot get their own way. We are surprised the LC has fallen for this particular rouse.

We were (as outlined above) somewhat mystified by this section, which appears to consist of a lot of words, not necessarily in the right order (to paraphrase a sketch by Morecambe & Wise). 8.35 to 8.38 do appear to show a lack of understanding of technology. The 'cab apps' are currently being rolled out across the country, Blackpool being one obvious example, rather than oppose technology the taxi trade has embraced it⁵⁰.

Obviously there is no law to currently prevent a taxi driver from accepting a booking via such technology; the legality of this comes courtesy of the case Brentwood vs. Gladen⁵¹ (as mentioned at 10.41 in the LC document.) It is again instructive to note the LC position in respect of the aforementioned case seems to be in line with the thinking of their advisor in chief (or 'consultant' as the LC refer to him) James Button. In the case the judge famously stated (at 30) the following in respect of Mr. Button's book (whom Brentwood Council were relying upon in court);

With the greatest respect to Mr Button, I am afraid I cannot agree with what he there says. It seems to me apparent that section 80 excludes hackney carriages from section 46(1) (d). I say that because, without going in detail over ground that I have already covered, "operate" relates to business in relation to bookings for a private hire vehicle. An "operator's licence" means a licence under section 55, and a "private hire vehicle" is defined as meaning a vehicle other than a hackney carriage. Thus, that, coupled with the provisions of section 55 and 56 which I have already read, seem to me to make it apparent that Parliament has recognised that different regimes apply to hackney carriages and to private hire vehicles, and that it is not necessary for a licensed hackney carriage, driven by a licensed hackney carriage driver, to be subject also to the requirements of an operator's licence; otherwise the limitations on the wording which Parliament has clearly set out would not be given their true meaning.

Private hire drivers are not entitled to utilize such technology as the law states that their work must come via a private hire operator; it is again instructive, but understandable, that

the LC do not appear to have considered changing this. The upshot of this neglect is undoubtedly to the benefit of private hire operators who have absolute control over what work is allocated to vehicles operating under their license.

Use of the word “taxi” in promoting private hire services

At 8.39 the following is stated;

8.39 **The current law is highly restrictive in how private hire services may be advertised.** *“Taxi” is a simple, user-friendly term for describing private hire services. That they are unable to use it can disadvantage such services by improved enforcement and protecting legitimate businesses making it harder to promote their business. This is particularly problematic as most members of public are unaware of the distinction between a taxi and private hire vehicle. In Chapter 14 we explore ways in which private hire operators may better advertise their services without leading to confusion with taxis and their unique ability to ply for hire at ranks and through hailing.*

We highlight the section above, as it cites the following;

“Local Government (Miscellaneous Provisions) Act 1976, s 48(1) (a) (ii); Private Hire Vehicles (London) Act 1998, s 31.”

Whilst we appreciate the citation, certainly in respect of the Local Government (Misc Prov) Act 1976, s 48(1) (a) (ii); the LC are incorrect. This section of the act states;

(ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;

The 1976 act in itself has nothing to stop a private hire company passing itself off as a ‘taxi’ company, although a number of local authorities have during the past two years attached a condition to private hire operators licenses forbidding the use of the word ‘taxi’ (and other similar words) in company names; Burnley is one example.⁵²

A resounding theme from both the Law Commission and indeed the wider general public has been an accepted ignorance of the key differences between Hackney Carriages and Private Hire.

The LC is correct in so far as the Private Hire Vehicles (London) Act 1998 is concerned. Although this act is more or less an updated version of the Local government (Misc Prov)

Act 1976, it appears to have addressed some of the fundamental issues experienced in the provinces, including company names.

Prior to the 1998 act there were a number of prosecutions in respect of 'Minicab' companies passing themselves off as taxi companies *Atkins v Green [HC QBD] 1970* being one such case.

The association believes sections of the London Act mentioned by the LC could address problems experienced within the provinces. Section 31 prohibits private hire companies from using words such as 'taxi', 'taxis', 'cab', 'cabs' or any words closely resembling such.

8.41 Hearings and appeals

Remedies for aggrieved licensees are often unclear. It appears particularly unsatisfactory that where a licensing authority imposes a condition of general application, it is up to individual licensees to either seek judicial review or to challenge the decision not to issue their licence. If the latter route is taken no precedent is set and the condition can, in principle, continue to stand for other licensees. There are also historic anomalies, such as taxi drivers' direct recourse to the Crown Court which private hire drivers do not benefit from.

Like so much of this document we are told "*Remedies for aggrieved licensees are often unclear.*" We are then told via the footnote; "*For further discussion see Chapter 6.*"

Chapter 6 is titled 'Hearings and Appeals', it covers approximately 3000 words yet despite the hyperbole gives way to some rather poor provisional proposals and questions, these were as follows;

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. (Page 230)

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. (Page 231)

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court. (Page 232)

Question 73

Should there be an onward right of appeal to the Crown Court? (Page 233)

Steering away from the rather daft provisional proposal numbered 70, it is rather clear the provisional proposals 71 & 72 and questions 73 are more or less what go on already.

It would appear the 3000 odd words used have resolved relatively little.

Interestingly, and as mentioned elsewhere in this paper, chapter 6 (paragraph 6.15) alludes to drivers drawing out the appeals process. Of course (and not mentioned by the LC in this area of their document), if a local authority believes a driver a risk to the public they can obviously enforce section 52 of the Road Safety Act 2006 – which permits them to suspend the driver with immediate effect.

This act has been used (read abused) by numerous local authorities to deprive a driver of the right of working pending appeal, we mention this elsewhere in this paper.

Costly litigation

8.34 states;

Litigation and uncertainty are costly and have a chilling effect. Licensing officers are not clear about what they should require by way of specifications and conditions, and licensees similarly cannot predict whether certain conditions might be lawful or not, nor whether or not they must get a licence. Our provisional proposals aim to improve the clarity of regulation and to promote consistency though more nationalised standards. This can help to limit the grey areas where disputes about licensing requirements are most likely to arise.

We find the above statements quite astonishing, it gives the impression licensing officers are responsible the imposition of attaching conditions to licenses. The rather more mundane truth is that councillors decide policy, licensing officers, as employees, are paid to enforce them. We are additionally surprised the LC appears to have perhaps not considered that licensing policy may be scrutinized by the legal services departments of Local

Authorities or indeed the representative bodies such as NALEO⁵³ or the IOL⁵⁴; this is without taking into consideration any consultation which should have take place with local stakeholders.

ENSURING AVAILABILITY

We were somewhat bemused as to the reasons why this section was in the document; we read it and then read it again, we must admit we are still at a loss. The LC refer to taxis being available, taxi touting, illegal plying for hire and disability issues, then tell us to carry on to chapter 11 where it will become clear (this would be considered a bit of a flaw if it were a murder mystery). Sadly it doesn't become clear in respect of how availability will be ensured, although the chapter, which we will comment upon later, does mention disability issues.

A rebuff of chapter 9 – Quantity Restrictions

As a little bit of an opening we would wish to point out some difficulties we often find in the use of the English language (coming from Cumbria we tend to use English as a second language anyway). The title of chapter 9 is one example, the word ‘restriction’ has numerous synonyms these include constraint, restraint, limitation and so on. The word is quite negative, before you read the chapter you are perhaps already thinking about the ghastly implications of restriction.

A better word would perhaps be ‘control’, the synonyms include (and thank god for MS word), manage, organize, be in charge of and suchlike. In other words, it gives a far more positive impression of management.

Whilst we would once again forgive the LC for this misuse of our language, we should point out we appear to be forgiving the LC an awful lot for minor errors throughout this paper

We find it instructive the LC has considered the experiences of deregulation in other countries, these being France, Australia, Ireland, Holland & Sweden. We would point to the statement;

“Our studies of Ireland and Sweden suggest that although those within the industry are often dissatisfied following deregulation, consumers generally benefit. This has not been, however, the experience in the Netherlands, where users, particularly in cities, have developed a very negative view of taxis.”

The LC suggest in the above statement that these were their studies, although we are reasonably confident they actually mean these are a result of the studies of the OECD round table (which they cite at various points in their documents.) As a writer of some note, and if my advice is wanted, if you are going to plagiarise, make sure you plagiarise something your readership won’t have read.

We find it rather odd the LC would wish to examine the experiences around the world with taxi deregulation, as the UK is far nearer, places in Europe and Australia are seemingly considered, yet there is precious little in respect of the US. This country however, has endured taxi deregulation in various areas for the better part of 30 years.

We find it sadly unsurprising that no reference has been made - anywhere in the document - to the various areas of **this country** where local authorities have deemed it necessary to re-limit taxi numbers due to major failings in the policy of deregulation. A fair document would have perhaps mentioned the experiences of Liverpool, Cardiff, Wirral and Sefton as opposed to Paris, Stockholm, Amsterdam & Dublin.

The LC dismissal of unmet demand surveys at 8.34 would appear to be sufficient reason for them not to take this type of evidence into consideration. A fair document would have perhaps studied the many available documents as part of a fair assessment.

The association is well aware of the view of the government 'best practice guidance' in respect of local authorities having the ability to control the number of hackney carriages within their area.

The association is of the opinion that if a regulator is to maintain and operate the licensing function of any area, it must surely follow that there should be some ability to regulate the number of permits they issue, all be the fact that they may not wish to do so at a particular time. There may come a time where regulation may become not only necessary, but more or less essential.

We believe consideration should be given to the cases of both Liverpool during the mid 1980's and Cardiff 2010, where hackney carriage numbers were limited on the advice of the police, who believed the over-abundance of hackney carriages was creating a dangerous situation within the city centre's of the respective areas.

In respect of Liverpool the Earl of Winchilsea and Nottingham commented⁵⁵ ;

"This has caused the Chief Constable of Merseyside a great deal of unhappiness and in his annual report he confirms the situation but is not really able to do anything about it. The situation in Liverpool is really quite dire—not just because of the taxis, as we all know, but taxis constitute some part of the total situation—and the public are at great risk."

The following was stated in respect of Cardiff⁵⁶ ;

"South Wales Police now support the imposition of quantity controls to limit the availability of taxis to the public. In a letter to the Authority of 20 November 2009 South Wales Police indicated that they

support the limiting of taxi licences on the grounds that there is insufficient rank space for the existing fleet of vehicles which results in dangerous parking and ranking by licensed vehicles as drivers rank up unofficially throughout the city centre.”

The removal of any ability for a local authority to have some-form of redress over numbers (in the case of taxi law satisfying the requirements section 16 of the 1985 transport act) would potentially lead to a situation where the sheer weight of numbers (of taxis) has created a problem, but there is nothing in law the local authority can do to remedy the situation – this is a quite unbelievable wager on the part of the LC.

Liverpool’s taxi numbers rose from 400 hackney carriages to 1400 vehicles within a short period of time.

Cardiff’s taxi fleet increased from 480 to 957 over a 7 - year period.

The above figures are truly massive increases in numbers – even if the association negates to mention the economic argument – the physical presence of such numbers creates an obvious problem.

Whilst the association may accept – to a degree – that increases in the numbers of hackney carriages invariably lead to decreases in the number of private hire vehicles (although in the cases of Liverpool & Cardiff it actually wasn’t), it must surely be a consideration that the increased number of hackney carriages stand and ply for hire within the Town and City centre’s – thus creating traffic management and pollution problems.

Crawley Council re-limited Hackney Carriage numbers earlier this year. Amongst the reasons given were “overcrowded taxi ranks”⁵⁷.

For the reasons given above the association consider local authorities, having considered local circumstances, to be best placed to determine the number of hackney carriages able to cater for their specific area.

The association believes taxi services should be assessed, by way of demand surveys and public input, every five years, as part of a wider local transport plan (LTP). Historically LTP’s have neglected the licensed taxi trade; this has been much to the annoyance of successive governments and to the frustration of the taxi trade.

The association additionally believes far greater consideration should be made towards the Hackney Carriage trade during planning applications, very often taxis are the poor relation to other forms of public transport.

The results of such studies will assist both the local taxi trade and local authority towards improving the service offered to the wider public.

The following is stated at 9.4 in respect of London;

No statutory power to restrict numbers in London

Perhaps ironically, given that number controls were originally introduced in order to manage congestion in the capital, there is no statutory power to control taxi numbers in London. The power to limit numbers in London was first abolished in 1833 upon consolidation of the taxi legislation. On the other hand, the stringent knowledge tests required of drivers in London and the costly vehicles required to meet the conditions of fitness constitute a significant barrier to entry and are widely regarded as achieving an equivalent result to quantity regulation.

Sadly, the above statement doesn't actually sit too well with TFL notice 13/11⁵⁸ where it is stated;

"Given the particularly high number of existing drivers and Knowledge students in the sectors listed below, after 31 January 2012, TFL will not process any new applications received after this date for suburban licences for the following three sectors until this full and detailed review and subsequent consultation has been completed:"

We suppose it's another thing about the English language, where the LC states "*there is no statutory power to control taxi numbers in London*" it could well mean "*TfL will not process any new applications received after this date for suburban licences*".

Whatever the legality of the TfL decision, the fact seems to be that London will limit licenses (sorry, not process applications) when it decides to.

9.8 was a tad controversial and worthy of a chapter in its own right;

Where a licensing authority wishes to impose numerical restrictions, it is asked to look for something (unmet demand) which it almost invariably does not wish to find so that it may use its discretion to restrict numbers.

Yet the stated purpose of unmet demand surveys is, in principle, neutral and only meant to take into account the interests of the travelling public.

By contrast, the practical decision will more often be taken in the context of vocal representations of the trades organised through trade unions.

This is understandable as decisions on deregulation have a direct impact on the financial interests of persons working in the trades and they tend to be more organised than consumer interest groups.

This ties in with the political dimension of decisions about whether to de-restrict and it is difficult to unbundle these difficult and competing considerations into a transparent and balanced process.

We find 9.8 rather unprofessional. The charges are furious, seemingly casting aspersions upon local authorities. If the LC wish to state they believe local authorities are corrupt, hey....we'll go right ahead and kind of agree with that kind of assessment, after all the former Chair of Carlisle's licensing committee (and former Mayor) was perhaps the prime mover in Carlisle's taxi fleet suffering deregulation, she told one colleague to "***sit down and shut up, we're going to deregulate and we don't care what it's going to cost you***", prior to the politically motivated decision to deregulate, she was later jailed for theft⁵⁹ (thus proving there is someone up there with a sense of humour).

At this point I would ordinarily write, "But seriously", however, I actually mean it. If the LC believes there are some types of crookedness or as economists like to word it, "regulatory capture", which is basically the same thing, then they should tell us, as opposed to alluding to such fraud.

Of course, cutting through the semantics the theory of 'regulatory capture' is merely that, a theory. The fact of the matter is that in respect of taxi regulation, it is a phrase used when those wanting a free market feel the regulators are in conspiracy against them.

Whilst the LC can state; "***it is difficult to unbundle these difficult and competing considerations into a transparent and balanced process***". It is reasonably clear from

their initial wording that they believe the system is set against what they actually want, which is of course deregulation.

Naturally the above two paragraphs would tend to suggest there is a flipside to the points raised by the LC.

It is clearly important people are aware of the phraseology within the act. It is stated at section 16 of the 1985 Transport Act;

“as if they provided that the grant of a licence may be refused, for the purpose of limiting the number of hackney carriages in respect of which licences are granted, if, but only if, the person authorised to grant licences is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet.”

In other words if a local authority deems it necessary to have a limit on the number of taxi licenses it issues, it must only have proof of unmet demand when refusing an application.

Whereas the LC describe a situation; ***“Where a licensing authority wishes to impose numerical restrictions, it is asked to look for something (unmet demand) which it almost invariably does not wish to find so that it may use its discretion to restrict numbers.”***

The Law Commission attitude towards surveys is set out above, yet it is difficult to reconcile the LC attitude towards taxi demand surveys with their own surveys to assess the happiness and well being of Law Commission staff⁶⁰. Indeed, as we will mention further in this paper, the LC attitude towards surveys appears to be one of positive recommendation at 14.59.

Of course the LC attitude towards surveys in the arena of taxis is different to their own house, but their refusal to accept them doesn't seem to be reasonable (especially in respect of 14.59). There have been at least two instances of surveys being questioned, Trafford is one example and the more obvious one being Plymouth⁶¹. The fact remains, demand surveys are transparent and open to scrutiny.

On the whole we believe the level of service deteriorates when an area is deregulated, this was emphasized to Richard Percival at a meeting in the North East of England during December 2011⁶² when the following was stated;

“TH then read the particular sections from the Transport Select Committee Response to the OFT Report. He then went on to say that Carlisle deregulated about five years ago, and it has since gone from a double to a single shifted operation with owner drivers “cherry picking” and working at the busiest times. It may be easier for a drunk to get home at 3.00 am on Sunday morning after a Saturday night drinking session, but poor old Mrs Smith has great difficulty in obtaining a taxi at 6.00 am to go to the railway station as all the drivers are in bed. The Council have recently written to all licence holders to ask if they are prepared to pay an extra £30 per year over the next three years on their annual licence fee to fund an Unmet Demand Survey. This is with a view to once again being able to impose quantity controls, as there is now an oversupply of taxis in Carlisle. Other Local Authorities have also had to re-introduce quantity controls recently due to the oversupply of taxis and the resulting congestion that it has caused.”

The following was stated at a meeting in Exeter during June 2012;

Tom Harrington: You used the word snapshot to describe relimited. Obviously the only example I’m going to give you is a snapshot, I haven’t got a clue about what’s going on in the rest of the country but we run a 24 hour taxi and private business in Falmouth. You can always get a taxi in Falmouth, it’s never a problem and Cornwall’s quite an interesting case because very close to us we’ve got zones that are delimited. So we’ve got Helston which is literally 11 miles away and we get phone calls almost every single Sunday from 5am til almost lunchtime from people in Helston who cannot get a taxi in Helston because what’s happening is, people have got their own cabs, they go out Saturday night. It’s the only time they can make any money, they are all out there at that time. It comes to Sunday morning and at that time there is absolutely no service. There is no-one there to take the ladies to church and it’s an important thing in Falmouth because we are regulated and limited on numbers there is an entrance into coming in to our market so we run our businesses properly, there’s always someone out, we are providing that service not just for the rank but for the phone calls, it’s all entwined but it is a very important part of the community, especially on a Sunday morning with all the old dears going to church. Now, I can only talk using your words in a “snapshot” but I’ve got no other examples. I am sure there are other people in this room that could probably give similar examples of where delimited has led to a lot worse service and that’s surely what we are here to discuss, I’m surprised no one else has mentioned it.

The resounding theme in both Carlisle and in Falmouth – areas almost 400 miles apart - is of a worse service in terms of coverage to the public after deregulation – it is a case of those market forces referred to by economists coming to the fore – drivers working when they know they can earn money – as opposed to having any regard to the general service they offer. This is further supported by evidence reported from Durham, which will be mentioned in the section titled ‘Zoning’.

The LC refer to this type of evidence as ‘anecdotal’, their further refusal to accept evidence gathered from surveys is equally revealing, in footballing terms it’s a little like breaking the opposing teams centre forwards knee-caps with a baseball bat before the game starts.

As the Consultation Paper addresses the serious criticisms by the Transport Select Committee of the OFT study there is no real need to continue with the points from the OFT study that are raised in the Paper. However it must be stated that there is greater emphasis given to the seriously flawed OFT Report by providing six whole paragraphs referring to its contents and only one paragraph to the report of the Transport Select Committee which examined the OFT Report and which trounced its recommendations. This is an obvious prejudice in favour of the OFT, who the LC inadvertently quote in various sections.

The following is stated @ 9.22

In 2007, Europe Economics undertook a follow-up study evaluating the impact of the Office of Fair Trading’s report. Europe Economics recognised problems with the way the original study was conducted, in particular in respect of market definition, interactions between different regulations, and inadequate assessment of consumer detriment and benefit. Overall, Europe Economics found that although customer waiting times decreased more as a result of de-restriction (a key consumer benefit), driver waiting times rose disproportionately leading to an overall decrease in productive efficiency in the industry. On the other hand, derestriction resulted in increased utility through additional taxi journeys and an overall consumer benefit.

As the use of the English language has been pointed out more than once in our paper, we can only come to the conclusion this is a deliberate ploy. The obvious example from 9.22 is in respect of *“leading to an overall decrease in productive efficiency in the industry”*. The word ‘efficiency’ is used, where the statement actually suggests that taxis in deregulated areas are inefficient.

The LC then cite (and attempt to tear down) what they describe as ‘key’ arguments in favour of quantity controls.

Congestion and environmental considerations

9.25 states;

“The key argument in favour of maintaining a power to restrict taxi vehicle numbers lies in tackling congestion. This is closely related to environmental concerns about air pollution. On the other hand, evidence suggests that where taxis are not available, most people will opt to use a car rather than other forms of public transport and in many instances there may not be a public transport option. Congestion and emissions may also be controlled by other means.”

Having been involved in the taxi trade my entire adult life, and during most of my adolescence, I must honestly state I have never heard of the key argument in respect of controlling numbers to be around the issue of congestion. The lack of citation in support of this by the LC is again astounding. Again we point out the use in the paragraph of the word ‘restrict’, which is used to bring in a negative. The word ‘control’ could have been used.

What this paragraph is doing is setting up a supposed ‘key’ argument in favour of quantity control and then knocking it down. This is devious and duplicitous.

9.26 concerns over-ranking where the following is stated;

“The trades have emphasised the problem of too many taxis lining up at ranks, particularly in city centres and at transport hubs. Ranks compete with parking spaces and bus lanes and there is therefore limited scope for increasing provision. Limiting the number of licences reduces congestion at taxi ranks. However, there is evidence to suggest that removing restrictions increases the availability of taxis elsewhere in the district, with taxis congregating in town centres. Local authorities could address this through innovative approaches such as use of temporary ranks at peak times.”

The LC then cite the 2003 OFT report and in particular paragraph 4.70 where the OFT stated the following;

“There is limited evidence to indicate that overcrowding has been a problem in LAs after the removal of quantity controls. Our case studies, however, show that where this is an issue, the market often adjusts with a smaller proportion of taxis waiting at ranks and a greater proportion plying for hire on the street or expanding to serve different areas. In Bristol, after the removal of quantity controls, it was noted that taxis were serving more residential areas which had previously not had any service.”

The OFT carried on to state at 4.71 in their decade old document;

“While we accept that potential rank overcrowding is an issue for La’s without quantity controls, in our view it can be managed. For example new ranks or temporary ranks to cover weekend and evening peaks may be created. Marshals could also be used at peak times to help speed up traffic flow.”

The duplicity of the LC is more or less confirmed above. They are more or less quoting the OFT report as a fact – the reality is that this report was roundly condemned by the House of Commons Select Committee who stated;

"The OFT report manifestly does not contain the evidence required to support its only proposal for legislative change: the abolition of quantity regulation. Its figures only support its case with considerable "adjustment" (which is never explained), its statistical and survey evidence are flawed, and it fails to consider the relationship between the taxi and PHV markets. Nor does the OFT explain why the taxi and PHV market has been the fastest growing form of transport over the last 25 years, and has grown by more than 40 per cent in real terms since 1994, if quantity restrictions have been so detrimental. Its recommendations on quantity control should be rejected."

Returning to the LC points at 9.26 they are seemingly relying on dubious information in respect to their conclusion. The BBC reported in respect of Bristol⁶³;

"Taxi and private hire drivers competing for late night business outside pubs and clubs in central Bristol are putting lives at risk, it is claimed. Bristol City Council says there are so many drivers crowding in to the city centre that some are posing a danger to other road users and pedestrians."

The LC state at 9.29;

On the other hand, areas which have de-restricted have not had uniform experiences, with some areas enjoying improved provision. However, changes to licensing policies are rarely about numbers alone and include other variations to licensing conditions, for example, in respect of standards. This makes it hard to establish and isolate the relationship between a change in numbers policy and the impact on provision.

Sadly 9.29 is completely without citations attached therefore it must be either an opinion or anecdotal.

Paragraph 9.30 gives way to a statement that takes into account some imaginary 'anecdotal' evidence. We use the word 'imaginary' as we believe the first sentence of the following statement defies logic and reason.

Anecdotal evidence suggests that increased taxi numbers can result in decreased provision at the times when taxis are most needed. This is because where plate numbers are restricted, drivers who wish to enter the trade are forced to take less popular shifts in order to use the vehicle. Maximum use is made of the vehicle and night time provision is increased.

The experience in Carlisle is that during peak periods the coverage by taxis is greatly increased – much to the detriment of everyone, Race days are an obvious example; the number of cabs working increases due to drivers adjusting their shifts for the anticipated busier periods – in turn this leads to a less efficient coverage during the perceived quieter periods.

Paragraphs 9.32 to 9.36 concern hardship to existing drivers. 9.32 states;

Many stakeholders representing the taxi trade have highlighted the perceived unfairness of de-restricting to those who have paid a shortage premium in order to obtain a licence. In areas where the number of licences is restricted, existing licences attract a high value when traded. Many licence holders have made a significant investment and taken out loans, and for many it represents a nest egg which can be called on later in life. Many licence holders make money through renting out their vehicle. Indeed, in Ireland the financial detriment to individual drivers upon de-restriction was such that a hardship panel was put in place to help deal with the problem.

The use of the word ‘perceived’ perhaps suggests any unfairness maybe a figment of the imagination, in a similar way to how fairies operate at the bottom of the back garden (bastards).

However the LC appears to have taken it upon itself to describe a scenario as a sale of a business as a ‘shortage premium’; that is to say there is a shortage of vehicles therefore there is a premium for licenses (as described in their citation). They then carry on by stating “*existing licences attract a high value when traded*”. They seemingly do not believe it necessary to advise specifically what defines a ‘high value’, again, this appears to expose the document as flawed in respect of research. They additionally negate to mention that the ‘shortage’ is after the scrutiny of a demand survey that actually proves there is no unmet demand in respect of custom.

The wider questions are naturally; does the LC mean that money paid for a business which is being sold, is a shortage payment? Or is it simply being paid because the business is a viable business and makes a profit? There appears to be little concern at this more likely scenario. The terminology once again displays an ingrained prejudice against regulated issue of taxi licences and the sale in controlled areas of taxi businesses. The word "restrict"

is used in place of the word "regulate" or "controlled". "Restrict" has greater negative connotations than the word "regulate".

At 9.38 the LC state;

"At the time of writing, 92 councils regulate the number of taxi licences, which constitutes around 26.7% of licensing authorities in England and Wales. Some councils which have de-regulated have now taken the decision to reintroduce limits (for example, Cardiff, Chesterfield, Coventry and most recently, Wirral). We note however that the reasons for re-introducing quantity restrictions may also include political factors."

The LC then point to the OECD roundtable document of some 252 pages, suggesting without any great sense of irony that reasons for re-introducing 'quantity restrictions' (there's that biased phraseology again) may also include political factors. The obvious irony (in respect of the LC's mission from the DfT) is their political objective of ensuring a deregulatory approach and the approach towards localism⁶⁴.

The LC (as noted elsewhere in this paper) then take to the seas to advise about numbers control in other countries, at 9.39 they reach the shores of Australia, yet cannot help themselves by making a passing comment about the UK and possible tax avoidance, they state;

"A number of countries give licensing authorities the ability to restrict taxi numbers. Those who do not have generally removed the power to do so recently and their experiences provide interesting examples of the result of numerical deregulation. It should be noted that the examples of numerical restrictions referred to below apply only to taxis and not to other forms of hire vehicles. Furthermore, in all quantity restricted areas, licences attract a scarcity value. This value varies between jurisdictions: from a few thousand pounds in the UK, to \$500,000 AUS in the Australian state of Victoria. This then leads to trading in licences, sometimes with a handful of individuals owning a large number of licences. Whilst this is not illegal in any of the states studied, it often takes place at least partially on the black market, for example, in order to avoid tax implications."

The references to a 'black market' are obviously intentional as to suggest to the reader that there is underhandedness in the sale of taxi businesses – which of course there is not. Indeed, under current law a local authority **must** alter its register of hackney carriage proprietors when interests are transferred⁶⁵.

After the grand world tour (we're very happy this was via Google rather than British Airways) the LC appear to begin a large paragraph with lots of words which will be confusing to virtually everyone, they conclude in respect of taxi deregulation across the world (at 9.58);

"The studies above illustrate the complexity of regulatory reform and the difficulties inherent in predicting the outcome of changes. Rarely, if ever, does numerical restriction occur on its own. Whilst quantitative deregulation is often criticised for giving rise to such problems as over-ranking, congestion, higher fares and lower standards, the comparative studies above show that often these effects can be linked to other reforms, such as the removal of fare regulation and changes to standard-setting. Furthermore, accompanying reforms can rectify damage caused by de-regulation, for example by ensuring standards and service levels. Studies show that the balance of regulatory and deregulatory instruments is essential to the outcome, and that it is vital that the structure of the industry and the way in which individuals work are understood and taken into account. Each element of regulation must be considered both individually and in conjunction with other elements of regulation."

The LC suggest to us that they now understand the taxi markets abroad, which is a rather interesting line to take, considering they appear to have more or less proven in their document a total ignorance of the UK taxi market. They claim the studies '*illustrate the complexity of regulatory reform*' when the fact's appear to be an illustration of the complexities of the different situations that prevail in the taxi markets in different nations.

The LC then state the 'inherent difficulties of predicting the outcome of change' which leads us to state if the outcome of a particular activity or "change" cannot be predicted then that activity is nothing other than an 'experiment' or 'guess'.

9.58 states in one sentence;

"Whilst quantitative de-regulation is often criticised for giving rise to such problems as over-ranking, congestion, higher fares and lower standards, the comparative studies show that often these effects can be linked to other reforms such as the removal of fare regulation and changes to standard-setting."

The removal of fare regulation and changes to standard-setting will only affect fare levels and standard-settings. They cannot possibly cause over-ranking and congestion. To suggest that is the case is highly misleading.

The LC carries on to state;

Furthermore accompanying reforms can rectify damage caused by de-regulation for example by ensuring standards and service levels.

It is instructive the sentence is a seeming admission that deregulation can cause damage, however, there is no detailed explanation in support of the above statement that proves deregulation can be rectified. Especially considering the Irish Taxi Hardship panel had to consider compensation to widows – unless of course the LC has developed a strategy which brings the dead back to life?

The Elephant in the tent

One of the largest disappointments in the LC document has been their complete lack of vision in respect of the future of the taxi trade; they have become bogged down in many areas by a dogmatic doctrinal approach. In all too many respects this is a frustration. The failure of the LC to ‘think outside of the box’ has seemingly shackled them to the consistently failed approach taken by numerous local authorities who have chosen to deregulate.

One thing that is completely absent in the report is a discussion of local revenues to be gained from the sale of taxi licenses, and from taxes on transfer of licenses among private license holders. This is an unacknowledged "elephant in the tent" considering for instance that New York City's current year budget includes \$1,000,000,000 (billion) in projected revenues from the sale of new taxi and for-hire permits. The sale of permits in NYC is currently tied up in court, but nobody disputes the arithmetic. Similarly, San Francisco is now wrapping up a two-year pilot program of taxi permit sales and transfers which has brought more than \$20,000,000 in new revenue to city coffers, and more than \$3,000,000 to a fund set up for driver welfare.

In both New York and San Francisco, the big winners are the people of the city who benefit from very substantial new public revenues at a time when budget shortages are the rule.

Ireland is an especially unfortunate case. The regulators could have greatly increased the number of cabs while generating hundreds of millions in new revenues for the public benefit, without going to the destructive extreme of unregulated entry.

More frustratingly the evidence is actually out there if the LC had chosen to do a little lateral thinking (or indeed proper research). A widely published article from the Southern Daily Echo from 2010 highlighted the money being earned from plate premiums⁶⁶. It hasn't apparently occurred to the LC in their document that local authorities could actually raise revenue from the regulated sale and transfer of taxi licenses.

The type of sale, governed by the local authority, would determine the 'scarcity' value and actually regulate any premium the LC considers is there. Arguably it would be to the benefit of a local authority to ensure its taxi trade is indeed profitable to ensure the business grows in accordance with demand. The LC appear to believe, and the proof is there by the LC's provocative terminology and use of the expression 'black market', that a premium is a sign of a taxi trade which profiteers – as opposed to a taxi trade that is in good health.

As mentioned above, the revenue generated from the sale of taxi licenses could be of great benefit, particularly in these times of austerity, to the local community.

A rebuff of Chapter 10 – Cross-border issues

We must admit we were quite impressed by the LC appraisal of the issues surrounding cross border, we would even go as far as suggesting it was a fair and balanced chapter. We naturally disagree with their conclusions, but it was fair and balanced nonetheless. We would even praise the LC assessment of cross border in respect of 10.20 where they state;

“It is important to recognise that the cross-border problem is thus very different as between taxis and private hire vehicles: taxis which pick up outside their licensing.”

As we mentioned in our foreword the LC view of taxi and private hire licensing hinges on various areas of legislation being put in place. The LC appear to believe if standards are the same cross border issue may well die a natural death.

The LC mention a device called ‘Am I safe’ at 12.27, we refer to this on page 77 and point out its reliance upon localised licensing regimes.

Our association is of the view that private hire and taxis should return to their area of license when they have completed a booking.

The LC reminds us of the words stated in *Murtagh v Bromsgrove District Council (15 October 1999) QBD*

This cannot be what Parliament originally envisaged ...The problem is to some extent the result of improved technology since the statute was passed, but the law needs to reflect the current state of technology and not be 23 years behind it.

The association believes the case of Newcastle City Council vs. Berwick upon Tweed (2008)⁶⁷ has had the benefit of assuring local authorities that they can refuse license applications when they believe the vehicle and driver will not be working within their licensing area. Given the potential for local standards to be circumvented, the association are surprised the Department for Transport does not appear to have offered advice on this issue.

The association believes the general principle has already been established in respect of the DFT issued model byelaws where at point 7 it states;

7) *The driver of a hackney carriage shall, when plying for hire in any street and not actually hired -*

(a) proceed with reasonable speed to one of the stands appointed by the Council;

(b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;

(c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction; and

(d) from time to time, when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.

In the case of DPP vs. Computer Cabs⁶⁸ established that a 'yellow badge' driver could lawfully pick up pre-booked passengers in the 'green badge' area, provided the driver was physically within his own area at the time of accepting the booking. The association believes this principle should apply nationally.

The complicated nature of the issues surrounding the reasons for cross border hiring's, certainly in respect of hackney carriages operating exclusively in other areas does sadly mean we have to mention standards attached to driver and vehicle licenses. It was cited in the Berwick case that amongst the reasons drivers licensed themselves in Berwick was because of lower standards than the area of intended operation (which was mainly Newcastle upon Tyne). Invariably Local Authorities instigate the attaching of conditions to private hire licenses for good reason. As we have mentioned elsewhere in our paper this could be bringing in an age policy due to evidence of older vehicles being less roadworthy than newer vehicles.

It could well transpire that a local authority is in receipt of complaints in respect of private hire drivers getting lost due to a lack of 'knowledge' of their area. Whilst the LC solution would be for the onus to be on private hire operators to rectify the situation, as poor

drivers may lead them to lose business, some local authorities firmly believe the greater benefit to the public is to ensure drivers are of a good standard upon license.

Following the LC logic to the extreme, there could be an argument that the Operator should be responsible for CRB checks and suchlike, after all, if they employ criminals, it will reflect badly upon their business etc.

If an area is a 'honeypot', it is reasonably obvious fees in the area will be higher in no small part due to enforcement (whatever the legalities) than smaller areas with less work. To expect licensees in 'honeypot' areas to effectively pay for the enforcement of other districts is bordering on the foolish.

It is interesting to note there is little about the implications of cross border hiring and insurance cover. A motor insurer needs to know where the vehicle is actually worked; some areas are cheaper to insure taxis than others. Having spoken to a number of insurance brokers they are quite concerned that a vehicle licensed in a perceived low risk area, will be worked in an area of higher risk – such fraud would likely lead to insurance cover being withdrawn

Insurance contracts

Thus the insured must reveal the exact nature and potential of the risks that he transfers to the insurer, while at the same time the insurer must make sure that the potential contract fits the needs of, and benefits, the assured.

A higher duty is expected from parties to an insurance contract than from parties to most other contracts in order to ensure the disclosure of all material facts so that the contract may accurately reflect the actual risk being undertaken. The principles underlying this rule were stated by Lord Mansfield in the leading and often quoted case of Carter v Boehm (1766) 97 ER 1162, 1164,

"Insurance is a contract of speculation... The special facts, upon which the contingent chance is to be computed, lie most commonly in the knowledge of the insured only: the under-writer trusts to his representation, and proceeds upon confidence that he does

not keep back any circumstances in his knowledge, to mislead the under-writer into a belief that the circumstance does not exist... Good faith forbids either party by concealing what he privately knows, to draw the other into a bargain from his ignorance of that fact, and his believing the contrary".⁶⁹

15.46 States;

"Under current law taxis may only ply for hire within their licensed area but may undertake pre-booked journeys anywhere in the country. We do not propose to change this. The scope for local variation in taxi standards and in particular the different fares and accessibility standards that may apply, mean that they should be restricted to working on ranks and to hailing passengers in their licensing area. On the other hand taxis would continue to be able to do pre-booked work 'out of borough' as they can under current law."

The above paragraph is incorrect; currently a local authority may refuse an application if they believe the vehicle will be used "the majority of the time" in another area. As mentioned elsewhere in this paper in respect of the Berwick judgement.

15.48 states;

"The move to a set of mandatory national standards would mean that although licences would be issued locally, by different licensing authorities, their requirements would be the same. Cross-border restrictions, and the so-called "triple licensing" requirement whereby the operator, driver and vehicle must all be licensed by the same licensing authority, would therefore fall away in respect of private hire services. This would further erode the significance of cross-border issues in respect of private hire vehicles."

We consider it as quite unbelievable that this suggestion is being made, each licence could be issued by a different authority and thus increase the complexity of the licensing accountability for private hire services. A driver could be licensed by local authority 'A', a vehicle could be licensed by local authority 'B' and the operator could be licensed by local authority 'C'. If a customer wished to complain about a driver, vehicle or operator the complexity of the complaint would transgress across three differing jurisdictions.

Rejection of a 'return to area' requirement.

15.50 states;

We regard the key problem with this option to be that it brings no consumer benefit whatsoever. On the contrary, introducing a return-to-area requirement would only lead to increased prices and reduced flexibility of provision. We consider that a return to area requirement is not justified as it is both inefficient and environmentally damaging. Both taxis and private hire vehicles could, after dropping off a passenger, legitimately pick up a different fare outside of their area pursuant to a pre-booking. Increasingly intelligent dispatch systems make the likelihood of matching up passengers with proximate vehicles a reality. If drivers were forced to drive back to their licensing area empty this would not only be expensive but also environmentally damaging as adding to dead mileage. Such a requirement would also be very difficult to enforce as a matter of evidence.

The LC surmise that a return to area requirement would ‘only lead to increased prices’, which is of course pure speculation, there is no actual proof of this being the case; indeed taxi fares are based around return mileage, in other words the customer is already paying for the cab to return to its district (or point of hire).

The LC use the word ‘forced’ in respect of the more appropriate word ‘required’, again, it’s a language thing, specifically designed to convey a negative.

We also question how the LC draw the conclusion that a taxi returning to its area without passengers is more environmentally damaging than a taxi returning with passengers.

15.51 states;

“The danger that an out-of-area taxi, or a private hire vehicle, may illegally ply for hire is a problem which requires specific action through targeted enforcement. If a driver wants to illegally ply for hire they are unlikely to be deterred through such an equivocal additional requirement. Scarce enforcement resources are unlikely to be most effectively deployed in enforcing such requirements.”

We believe 15.51 displays flawed logic in respect of the second sentence, if a driver has to return to his area, then they cannot possibly be in another area illegally plying for hire. The LC state ‘scarce enforcement resources’ yet seemingly fail to acknowledge that the licensing function should be self funding. Proposals have virtually nothing in respect of fees (which will fund enforcement) and it is unlikely that a scenario where funding is taken from local taxation will be acceptable given these times of austerity. It would appear what the LC are basically saying is that they won’t make a law against it, because they can’t enforce it anyway, a quite astonishing admission.

15.52 states;

“As also noted above the introduction of common safety requirements reduces the seriousness of the cross-border problem. If a licensed vehicle illegally plies for hire it may be competing unfairly and breaching various regulatory requirements but it does not present a safety risk. Minimum safety requirements that apply to both taxis and private hire vehicles mean that in certain key respects the vehicle is safe. The more serious safety problems relate to completely unlicensed vehicles. The cross-border issue in fact diverts potential resources from addressing this much more dangerous phenomenon.”

What the LC are suggesting here is that under their system it doesn't matter if vehicles illegally ply for hire because the risk is much reduced due to their new safety standards. As mentioned elsewhere in this section, the LC fail to understand that taxi insurance is dependent upon where a person works as opposed to where he resides; insurers invariably ask where the vehicle is licensed. Not, where it is worked. Again the LC mention national safety requirements yet have little idea what these requirements will be. They are presuming the standards will be greater (or more uniform) than they currently are, however they cannot cite a single local authority who's standards are lacking.

Chapter 11 Equality and taxis in the community

This chapter was well written and a reasonably accurate summary of equality and taxis in the community. However we have a number of issues which we state below;

11.12 states;

The suggestions detailed below relate, for the most part, solely to taxis. Licensing authorities have fewer powers in relation to numbers and vehicle specification of private hire vehicles, and it is not envisaged that existing powers in relation to taxis be extended to private hire vehicles, due to the broadly successful operation of market forces in this sector.

There appears to be no citation attached to the LC conclusion that ‘market forces’ are broadly successful in relation to private hire vehicles serving the wheelchair bound community. Indeed as mentioned previously, the ratio of accessible PHV’s is instructive. We therefore wonder where the LC has arrived at this conclusion from. Current data suggests a rather pathetic 2.3% of the countries private hire fleet is wheelchair accessible.⁷⁰

Indeed there is evidence of the widespread overcharging of disabled customers by private hire operators⁷¹. The previous end note (70) mentions a case from Keighley, there is similar evidence from Wycombe⁷², Belfast⁷³ & Newcastle⁷⁴ we would contend that this needs addressed by the LC.

We draw attention to 11.21 where it is stated;

The requirement for all taxis to be wheelchair accessible may not be entirely beneficial. Full accessibility may not be right for every area, depending on the needs of the local population. A requirement for all licensed taxis to be wheelchair accessible imposes a financial burden on the industry.

It would appear the above statement is the epiphany I stated in my foreword wasn’t going to happen, of course it isn’t, but it would appear the LC do recognize that there isn’t a ‘one size fits all’ approach across the country in respect of the ‘financial burden’ placed upon the Hackney Carriage trade.

Naturally the LC couldn't keep up with my much hoped for epiphany too long, as my hopes were dashed when 11.21 continued to state;

Anecdotal evidence gathered during our preliminary meetings with stakeholders suggests that, where such requirements are imposed, a number of taxi drivers transfer to the private hire vehicle trade. This in turn may be detrimental to the population at large as it may reduce availability.

The suggestion by the LC that this is anecdotal based on discussions is quite alarming, Philip R Oxley of Cranfield Centre for Logistics & Transportation was employed by the Department for Transport to study the implications of accessibility ⁷⁵ . The following was stated in his report;

Those areas where there is no mandatory order and no quantity limit are likely to be the most severely affected, with a substantial movement to private hire. Many of these areas are also ones in which the majority of taxi work comes via the telephone/radio circuit rather than off rank or on-street hail; again reasons why taxi operators may choose to go to private hire since they would lose little of their hackney work.

Our association views the omission of this widely known study as quite astonishing.

11.24 states;

Allowing private hire vehicle operators to sub-contract work could lead to more efficient provision of accessible vehicles. It would allow a firm which is unable to satisfy a booking to use one of its own vehicles to pass the work on to another firm. This could also provide a further incentive to private hire vehicle drivers to invest in accessible vehicles.

The thought occurs that a private hire company is already permitted to 'sub-contract' to providers in its own area.

However, if the LC are advocating what is known as 'sub subcontracting', a fraudulent and often complicated system whereby a contractor tenders for work, then sub contracts it to another party who in turn sub contracts it to another party at a fraction of the original price, then I wonder if the LC are aware of the potential for fraud and the danger to the public?

The taxi and private hire trade has lost millions of pounds in respect of these scams that have hit the industries in recent years. Fraser Eagle is an obvious but costly example⁷⁶ although there are numerous others out there if the LC actually bothered doing research.

In relation to local transport planning the LC stated at 11.51;

Many local transport authorities recognise the importance of the role of taxis and private hire vehicles in providing public transport services.

They then cite two instances of local authorities referring to taxis within their LTP's (Tyne and Wear & Plymouth). Obviously two is far better than one, but are two instances really numerous? This has echoes of a statement made by Philip Soderquest of Northumberland Council who described taxis and PHVs in front of the Commons Select Committee as "*a huge part of the local transport infrastructure*" in the county.⁷⁷

Taxis appear to have been mentioned in the Northumberland LTP 3 once.⁷⁸

It is however instructive to note, the two local authorities they cite (Tyne and Wear & Plymouth) are areas that actually regulate taxi numbers, they must therefore presumably pay a little more attention to the role of taxis, than those local authorities that issue licenses with wanton abandonment allowing market forces to dictate.

The LTP 2 for Cumbria had 3 mentions of the word taxi in a massive document and these were only in respect of Carlisle – none of the targets were actually implemented.⁷⁹

Consideration of Chapter 12 Technology

The L.C. dedicate chapter 12 of their document to the subject of technology, we are then forced to endure nine pages of facts of a dubious nature and of dubious significance, although 12.2 of the document does appear to acknowledge this when it states;

This chapter focuses on the many ways in which technology has impacted consumer engagement with taxi and private hire services. We recognise that, although premised on the use of horse-drawn carriages, taxi vehicle regulation has proved remarkably flexible and poses fewer problems. Paradoxically, the more recent private hire regulation has encountered greater difficulties, as it is premised on a particular model of pre-booking which has since been superseded by the widespread use of mobile phones and the internet.

In the view of our association this single paragraph answers the points raised in the following nine pages; taxi law is clear on the issue; how a customer books a taxi is of little significance; it is clearly more important that the person receiving to booking is correctly licensed and the driver dispatched is equally qualified.

The association is aware of the points made by some that existing legislation takes little account of modern technology. The Association is unconvinced that modern technology has had the impact suggested.

The fundamental principle of private hire licensing, as demonstrated in the case of Shanks vs. North Tyneside Borough Council 2001⁸⁰, is that the area where the telephone booking is received must be responsible for the licensing of Operator, Vehicle and Driver. – Our association cannot see the merit in attempting to change this very sensible licensing principle.

It has been suggested that topographical knowledge tests are no longer necessary due to satellite navigation. The association does not agree with this view. We believe in order to work any area as a hackney carriage it is essential to have a good working knowledge of that area – there have been numerous instances of this technology failing.

In respect of the above Manchester City Council recently met and expressed their concern at the number of drivers whom had become over reliant upon the technology. The council is to review its driver training and assessment policy⁸¹.

At 12.27 the following is stated;

Technology is increasingly useful in ensuring effective enforcement. It allows easier and instant identification of licensed vehicles and can give passengers the opportunity to check the licensing status of a vehicle. Using the Smartphone application "Am I Safe", passengers can input the vehicle registration in order to check whether it is licensed. A message can also be sent to a nominated person informing them that the passenger is taking the vehicle.

As a rather decent example of *not thinking things through properly* the LC appear to be happy to endorse the product called "Am I Safe". Sadly the LC position in respect of this falls down on two points;

Firstly the technology involves accessing a database that maybe subject to data protection laws.

Secondly, and rather more amusingly, if cross border activities are to be endorsed by the LC, it could transpire that a customer is sent a vehicle from an area which doesn't subscribe to this particular money making exercise, the passenger is then faced with a vehicle and driver unrecognized by the system.

The following is stated at 12.29;

*12.29 Lack of communication between agencies involved in enforcement presents a significant problem. Increased data-sharing between agencies such as licensing authorities, the police and the Vehicle and Operator Services Agency would lead to more effective enforcement and could provide an incentive to undertake more enforcement. This is currently hampered by those agents involved having different levels of access to records. Improved means of recording information may assist operators in fulfilling their record-keeping obligations. **That councils can prescribe record-keeping methods could potentially place restrictions on business models.***

The highlighted section above cites Local Government (Miscellaneous Provisions) Act 1976, s 58(2), sadly our association cannot see how section 58 of the 1976 act, which

pertains to the return of license or identification plates upon expiry, suspension or revocation is relevant. The citation of an incorrect section of one of the various acts is in a seemingly consistent line of misplaced citations within the LC document. In many respects, this negligence (or lack of attention) is similar to the comedy series “Red Dwarf”, where Arnold Rimmer regularly misquotes “space core directives”;

Rimmer: In which case we can remove him from duty as per Space Corps Directive 196156.

Kryten: 196156? Any officer caught sniffing the saddle of the exercise bicycle in the women's gym will be discharged without trial? Hmm. I'm sorry, sir, that doesn't quite get to the nub of the matter for me.

Consideration of Chapter 13 – Overview of provisional reform proposals

The two tier system of licensing was introduced to license a tier of drivers, vehicles and operators where previously this wasn't the case. It is clearly important the public are assured that every licensed vehicle is maintained and in good order, the driver is honest and operator is legitimate.

The association is convinced the current two tier system is perfectly workable, although we can foresee a possible need for a multifaceted second 'private hire' tier that encompasses the differing business models.

The association is aware of ideas mooted by others for a single tier form of licensing. We fail to understand the LC idea of "opt-in" licensing systems, as what the LC proposes would have the effect of a patchwork of differing regimes across the country, never mind the UK. Ironically the term 'patchwork' was used by Lord Airedale in a debate about the 1976 Act⁸².

One particular scheme appears to suggest a single tier consisting of three internal tiers. This is presumably based upon the Taxis Act (Northern Ireland) 2008⁸³.

The internal tiers can be described as a tier of wheelchair accessible vehicles permitted to 'rank' and 'ply for hire', another tier of saloon vehicles that are allowed to 'ply for hire' but not 'rank', with a final tier which comprises of 'executive' type vehicles which would be licensed but not permitted to either 'rank' or 'ply for hire'.

The association believes the above system of licensing does not create sufficient incentive to adequately invest in Wheelchair Accessible Vehicles and as such, these vehicles will become unviable.

The above system could also create a virtual monopoly situation in respect of the larger private hire companies, they are the ones ultimately coming into a 'single tier' licensing system from a very powerful position – as Darryl Biggar ⁸⁴wrote;

“Larger cab networks have more available vehicles and are likely to be able to offer short waiting times on average. At the same time, since customers are attracted to calling a network that offers the shorter

waiting times, the larger networks are likely to have more customers, thereby attracting more taxis to join their network.”

A key principle of law is that it must be workable to those enforcing it and clearly understandable, the association does not view the above suggestion as either.

The association feels there are a number of key areas that should be grasped as central core principles. The underpinning principle of any licensing system is obviously, and quite correctly the safety of the public.

This key principle should be determined by a local authority when assessing the applicants' fitness and propriety. We believe local authorities currently have everything available to ensure applicants are 'fit and proper', although we believe all applicants should satisfy the enhanced standard of CRB check.

It should however be considered that a private hire booking is a choice the public make upon calling a private hire operator. If a customer experiences difficulties with any operator, (perhaps through poor service performance), they can and do call another operator.

Invariably private hire operators must compete with both hackney carriages and other private hire operators; they usually do this on the basis of providing a better (or different) service or in terms of price – the consumer benefits from this.

The association believes a further core principle should be the recognition that private hire covers a multitude of different business models, whilst some private hire companies offer outwardly similar services to those offered by taxi companies, a good number of others do not.

As you will be aware, some private hire companies specialise purely in airport transfers, whereas others specialise in executive hire, some specialise in minibus operations and some specialise in novelty vehicles. All deal with the wider public and justifiably are checked by local authorities.

Fares charged by private hire companies invariably differ from those charged by hackney carriages. We believe this is to the benefit of the consumer.

The association believes all taxi fares should be set by a local authority, for the purposes of the protection of the public.

To permit a hackney carriage owner to charge whatever they feel would obviously create a situation where drivers were able to charge to excess during busy periods.

We then arrive at one of the most bizarre sections of the LC document;

“Our proposals as an opt-in one tier system”

13.13 states;

“Our preferred provisional proposals are premised on a reformed two-tier system. There are many common elements. Bottom-line safety would be the same (or equivalent) for both taxis and private hire vehicles. Local requirements for taxis, over and above the common safety features, would be optional. This means that if a licensing authority wished for a single class of vehicle to service its community this would be possible. It would be enough for it not to exercise its powers to impose additional local conditions on its taxis. The common, basic safety standard applicable nationally could apply to all vehicles in that locality.”

13.14 states;

“For example, a small rural authority might opt to only apply the national bottom-line standards for both taxis and private hire vehicles. No additional local regulation would apply to taxi drivers and vehicles. Such a local authority may or may not choose to regulate fares at all. If such a local authority chose to regulate taxi fares the only difference between taxis and private hire vehicles, apart from signage, would be the presence of a meter. Applicants for a licence could decide whether the limited rank and hailing work would justify seeking a taxi licence; or instead whether a private hire licence would make more sense.”

The above two comments are quite revealing, They make play on national standards which are not known, but appear to inadvertently suggest the national standards for vehicles will be minimal; after all if we are to have wedding and funeral vehicles included in a single tier of licensing we should be anticipating vehicles being licensed which are rather old.

It is quite remarkable that the LC is underpinning such faith in standards which haven't yet been decided.

Zoning

We must admit to confusion over the position of the Law Commission in respect of zoning.

It is stated at 15.39;

We propose the introduction of more flexible powers enabling licensing authorities to respond more easily to local needs. Such powers could allow authorities to create licensing zones, or remove them, within their area. For example, in large metropolitan areas it may be advantageous to be able to follow the London model and create central and outer zones. Such an approach could assist in tackling concerns over the “honeypot” effect of city centres which may leave suburban areas with insufficient provision.

Our association support the idea of a local authority having the ability to zone areas within its district. However, the LC position in respect of which makes little sense and is in many respects ludicrous.

The LC would like deregulation – whilst at the same time acknowledging some areas will not be served as there will be ‘honeypot’ areas within some districts. The presumption that some drivers will obtain licenses for areas that have a demand of sorts over and above an area which has perhaps an overabundance of taxis yet has guaranteed work doesn’t actually work in practice.

It was suggested in the Wirral Survey⁸⁵;

With regard to ranks, the representative commented that it may be beneficial for Wirral Borough Council to subsidise ranks in rural areas whilst the trade generate demand.

One of the main reasons Wirral deregulated taxi numbers in 2002; one of the reasons for this decision was a lack of service in the outer areas of the Borough. During this time taxi numbers almost doubled going from 148 to 289 taxis, surveys during 2003 & 2006 found a

small unmet demand in the outer areas, but the demand was so small it wasn't profitable for taxis to work these areas and still earn a profit.

The statement from Wirral regarding subsidies is quite revealing as to the disastrous state of affairs in this location - to ensure demand the taxi service may need public subsidy – not exactly the type of thinking that would emanate from the Chicago School – the point in being even a doubling in size of the taxi fleet cannot guarantee a service where there is no profit.

Durham is one obvious example of a lack of zoning where it has been reported that an extra 400 taxis are regularly plying for trade within the city⁸⁶ at the expense of the rest of the county.

Consideration of Chapter 14 – Reform of Definitions & Scope

London

It may please the LC to discover that we actually agree with London being included if new legislation is to be adopted – its exclusion from the 1976 act for whatever reason was obvious folly as a completely unlicensed tier of vehicles ran around the capital for the next 20 years without the checks and balances vehicles outside of the M25 were subject to.

What vehicles should be covered?

Having spent a not inconsiderable amount of time completely disagreeing with the LC, rather surprisingly we agree with the LC yet again, for the record that's two 'on the bounce'.

However, it is a matter of public safety that any vehicle '*whatever its form or construction*'⁸⁷ should be licensed. Again, we would be disappointing everyone if we didn't point towards the wording used in italics coming from 'archaic legislation'⁸⁸ dated from back in 1847. We do believe there should be certain exemptions in any new law and these will be explained in the forthcoming few paragraphs.

It is instructive to note the admission by the LC at 14.13;

Two key consequences flow from a broad definition of vehicle. Firstly, a greater range of standards would have to be applied. The expansive list of possible vehicles covered, including motorbikes, limousines, horse-drawn carriages and pedicabs, calls for different sets of safety requirements tailored to different vehicles. Secondly, the broad approach may be over-inclusive. Exemptions may be needed. The default inclusion of all vehicles carrying passengers for hire can act as a barrier to entry in respect of novel vehicles which may not fall within a pre-established category with defined standards. Standards of fitness would have to be agreed in respect of such vehicles before they would be allowed to operate.

The acknowledgement of "***a broad definition of vehicles***" is an unmistakable fact the LC have recognised the differing business models that should come under the umbrella of a private hire licensing function. It is however surprising that this acknowledgement does not extend towards to possibility of recognising that the differing business models would perhaps require a differing license with differing regulation.

14.18 states;

The considerable discrepancies between public service vehicle regulation compared with taxi and private hire services make it desirable to reduce the area of overlap in order to avoid “regime shopping” (where providers might select the licensing regime that appears least onerous rather than that which is most appropriate). We therefore propose to use the number of passenger seats as a way to mark as clear a border as possible between taxi and private hire regulation on the one hand; and public service regulation on the other.

Whilst we see merit in the LC suggestion, we should perhaps point out the LC speculation of providers passing over one licensing regime to another that appears “least onerous”.

We would be failing if we didn’t point out that this eventuality will in all probability still occur as the LC have a bizarre fascination in allowing cross border hiring – this coupled with differing local conditions for taxis, alongside fees that may be similar but subject to enforcement requirements – adds up to a furious ignorance of practicality.

Where driving is an ancillary part of the service

Points 14.26 & 14.27 are more or less a statement of fact – we concur with the DfT guidance.

Volunteers

14.28 states;

Volunteers would automatically be excluded by an “in the course of business” definition. Volunteers may be subject to registration under the Vetting and Barring Scheme under the auspices of the Independent Safeguarding Authority. Some services may also be provided under a community transport permit. The organisations that work with such volunteers are often best placed to address the concerns specific to their way of working.

As words go we tend to like the English language. The word ‘may’ is one obvious example; it sits alongside, ‘might’, as well as ‘possibly will’ and is equally at home beside ‘fingers

crossed' and 'with a little luck'. Sadly, our association tend to think, 'luck',' might', 'hopefully' (sorry missed that one) and suchlike are little vague in view of public safety.

14.29 continues to suggest volunteers should not be licensed – yet there is little qualification to the term 'volunteer' save to a passing reference to 'in the course of business carrying passengers' (as quoted from Public Passenger Vehicles Act 1981).

Our association sees this as a matter of risk. Whilst we are not particularly bothered if a person makes a profit, it is quite obvious a number of predators over the years have gained positions through trust⁸⁹. We feel that any regulatory regime needs to take this into account; it would be failing the public if it didn't. A consistent line of this association has been for inclusive licensing; we therefore believe volunteer drivers should be licensed, but not necessarily to the same standard as those who earn a living from the transport of passengers.

We were somewhat mystified by 14.30 as we were not aware of taxis and private hire vehicles being hired out on a cost only basis, the following is stated;

"In the context of taxi and private hire licensing this might be relevant to the owners of classic taxis who might occasionally hire them to the public; if done at an amateur level and only in order to maintain the vehicle, it may not amount to business use. Generally, such activities would not be caught by licensing requirements."

Sadly there is no citation or note attached to the above sentence, we therefore "ain't got a Scooby" what the LC are on about.

Carpooling

Our association has no particular view on carpooling – although we would envisage the excellent television show 'Criminal Minds'⁹⁰ will at some point dedicate an episode to serial killers and carpooling. As ideas go, the thought of allowing a complete stranger in my car is one that fills this writer with horror – I do suppose, in hindsight, that's a bizarre statement from a cab driver!

Club membership and access to private hire services

Whilst we have no view on car pooling save for the potential of serial killings – we view the position of private members clubs in a different light, whilst the clubs are pretty much a decent idea, particularly for female passengers who may feel vulnerable – we do believe the vehicles and drivers should be licensed. There is the same element of risk both in respect of the driver and vehicle.

Wedding and Funeral Hire

The LC appear to have an almost unnatural fixation with limousines, I avoid the temptation to suggest they are presumably their vehicle of choice, however, we find ourselves at a loss – at least in respect of wedding and funeral cars - as to why they are proposed to be included within new legislation, given the previous exemption.

The LC state at 3.62 & 3.63;

Weddings and funerals

3.62 Vehicles used wholly or mainly in connection for funerals are exempt from private hire licensing, as are vehicles whilst they are used in connection with a wedding. That the exemption is wider for funeral vehicles than for wedding vehicles appears to reflect the traditional usage of these types of vehicles.

3.63 This is a potential loophole in the licensing regime. Companies which provide limousines for hire for a range of events, including weddings or funerals, will need to comply with the appropriate licensing regime. However companies which only provide vehicles for weddings or funerals and not for other events do not need to be licensed. There is also some debate as to the extent of the meaning of “being used in connection with a wedding”. For example where it is customary for wedding celebrations to last for several days, should the exemption apply for the extended period, or just the wedding day itself?

We find the rationale explained in 3.63 rather odd. We are similarly confused with the statement “*There is also some debate as to the extent of the meaning of “being used in connection with a wedding”*” as we have not seen or read any debate, we would therefore wish to see evidence (of this debate).

The law is actually quite simple in respect of weddings and funerals, as in, they are the only jobs covered that entitle exemption, the moment a vehicle is used outside of those purposes is the moment the vehicle should be licensed.

There are numerous cases of unlicensed limousines being prosecuted.

Rother District; Council prosecutes illegal limo operation⁹¹

TFL: Capital's rogue limousines targeted⁹²

Cambridge; Limousine business owner Sooty Edwards fined for having no licence⁹³

Dudley; Limo firm fined after being caught in council 'sting'⁹⁴

The reasons for wedding and funeral vehicles being forced to have license as normal 'minicabs' appears nonsensical – using the same type of mindset it would be obviously far safer to the public if we ensured every vehicle in the UK were licensed – as at some point they may be involved in carrying passengers.

The vagueness of the LC document again comes to the fore, we can see why wedding limousines and funeral cars may need some type of rudimentary licensing and vetting system; however we are not aware of any instances of inappropriate behaviour by drivers on weddings or funerals – this lack of evidence leads to our view that the status quo should be retained in respect of wedding and funeral cars being exempt.

Reinstating the contract exemption?

The contract exemption was originally repealed due to the abuse of those benefitting from the loophole. Subsequently when the law was tightened up a number of authorities (Dacorum being one example) initiated a system of 'contract only' private hire licenses. Unfortunately this system was subjected to abuse and a number of drivers used this route to obtain a licence whilst avoiding taking the full knowledge test. They did not restrict themselves to contract work but made themselves available to carry the general public. On reviewing the situation and taking into account the legislation at that time which provided an exemption for drivers and vehicles operating under long-term contract from holding a licence, the practice of granting 'contract only' licences was stopped.

There were numerous abuses of the 'contract exemption' including airport hiring's and suchlike, we cannot honestly understand the LC justification for such a silly idea.

Streets and private land

The association will be interested to read what proposals the LC intend with private land, it is however instructive the LC seemingly neglects to mention patronage of many transport hubs is invariably sold to the highest bidder. On the whole those responsible for the hubs are quite mercenary when it comes to accepting tenders – they don't particularly care who has exclusive rights, be they private hire or hackney carriage - in true capitalist tradition – the shareholders come first with the public a very distant second – price is the all important aspect of any bid. The effect is that fares are increased to the ultimate disadvantage of the passenger.

We find it quite galling the LC are so naive to accept fares at transport interchanges are subject to local regulation – this shows precious little research and leaves us to conclude this is an area the LC are not particularly bothered about.

The LC adulates the airport system at 14.57;

If passengers have a problem, the airport authority may be the first point of contact to make a complaint. We understand this was a key factor for Gatwick airport in moving to a single private hire contractor. This allows scope for the airport to prescribe detailed conditions on the level of service they expect.

The above adulation has seemingly little to do with reality. The local MP, Henry Smith, cited the lack of competition at Gatwick during January 2011⁹⁵.

In respect of airports, whilst we make passing reference to them above, the LC position appears to be somewhat duplicitous. They state the following;

It is important to consider how regulation can encourage competition and consumer choice. Funding information desks through a levy on the trades can be controversial. A requirement to monitor customer satisfaction according to agreed parameters could prove useful. Waiting times and facilities could be

rated, and benchmarking could be used to ensure that if satisfaction fell below agreed levels regulators might intervene.

The LC refusal to acknowledge unmet demand surveys in previous chapters, their apparent ignorance as to what they contain, simple things like public satisfaction, reports from other stakeholders, views of disabled groups, the level of service, rather surprisingly are cited at 14.59 as 'useful'. Indeed, they additionally suggest regulators 'might intervene' if service levels fall 'below agreed levels'. The duplicity is seemingly complete and we don't believe we need highlight this point further.

The LC then appear to throw in a bit of a 'curved ball' type question at 14 which is so off the wall it left us wondering if they had just thrown this question in as a source of amusement. Question 14 is so bizarre we don't really think its worthy of answer.

Our above suspicions appear to have been confirmed when at 14.69 the LC appear to have got a little bored with writing, and decided to do a little doodling instead. The doodle appears to be loosely based upon the face of South Park character 'Randy Marsh'⁹⁶.

Whilst 14.60 to 14.74 are useful, they would appear to be of little significance, there are an abundance of court cases covering the issues of illegal plying for hire. If local authorities are not aware by now, they never will be.

The LC state at 14.80;

Another key feature of taxis, to be contrasted with private hire vehicles, is that under current law they are not permitted to refuse jobs once the consumer has engaged them appropriately, either at a rank or as a result of hailing. As well as a legal requirement, this is a deeply-rooted custom, and effective (in combination with other measures) at combating discrimination. We propose to retain compellability in substantially the same form as under current law.

The above was more or less covered in paragraphs 3.22 & 3.23; the repetitive nature of the LC document does tend to mean we go over ground we have already walked upon.

The assertion of a taxi driver being compelled to accept a hire whilst either plying or standing isn't completely correct. Section 53 of the 1847 act permits a driver to refuse a fare if he has a 'reasonable excuse' the same section also states drivers are not compelled to take passengers beyond the 'prescribed distance'. We find it rather strange the LC mention the Divisional Court case of Hunt vs. Morgan⁹⁷ at 3.23, yet fail to cite it here.

14.82 to 14.85 relates to the leisure use of vehicles. Again we feel the word we must use in respect of the LC view is 'naivety', we cannot see the logic in allowing a loophole in legislation, an ambiguity that has been exploited in the past, the case of St Albans v Taylor, mentioned at 3.52 is one example.

14.86 & 14.87 do appear rather odd. The LC thoughts behind statutory guidance would tend to suggest they have little confidence in what they're proposing; statutory guidance would appear to be a 'get out of jail free card' just in case things go wrong. We have little idea who drafted the 1847 act, but considering that legislation remains in working order to this very day, we would urge the LC to dig out their Ouija Board and consult with them.

After a reasonably sensible start paragraphs 14.88 to 14.93, which refer to terminology and the use of the word taxi, went downhill with alarming speed. The dropping of the term 'Hackney Carriage' is in our view clearly sensible, the replacement of it with 'Taxi' is a stroke of genius, after all, the vehicle is a 'taxi' anyway.

Sadly 14.89 repeats the same error previously made in respect of private hire operators using the word 'Taxi', sadly the LC appear to be working to the old motto of if they say something for long enough it will come true, sadly it won't. As previously mentioned it is only the 1998 London Private Hire act that prevents London based operators from using that and similar words (save for the 1968 London Cab Act). There is no such prerequisite within the 1976 act, despite the LC insisting upon it.

At 14.90 it is stated; *"We suggest for consideration the idea that advertising for private hire services could include the word "taxi" or "cab" provided it was in combination with "pre-booked" or equivalent*

qualifying language to signal the limited way consumers could engage them". This suggestion contradicts the previous statement in 14.88 where it was stated; *"there are no compelling reasons to abandon the current division between taxi and private hire terminology"*, it would only serve to increase the confused perception among consumers that a private hire car is a taxi. The awareness of the difference between the two types of vehicles would most definitely not be helped by this idea and indeed the distinction between the two vehicles would be fudged.

14.92 states; *"On the other hand many consumers use the term taxi in respect of both sides of the trade"*. This is obviously a reason for education of the consumer rather than capitulation to his ignorance.

Issues arising from Chapter 15 - A REFORMED REGULATORY FRAMEWORK

As mentioned elsewhere in this paper, the LC have placed great faith in National Standards, yet will have virtually no input into what these standards will actually be.

As mentioned, to encompass all the business models covering private-hire and to include wedding and funeral vehicles, it can only be surmised that these standards will be of minimal proportions.

The LC envisage a system whereby standards for private hire will be set by the Secretary of State, however the contradictory and confusing nature of their document does raise question to this. 15.4 states;

*“Licensing is currently carried out by local authorities and Transport for London and we do not propose any change to this allocation of responsibility as part of our reforms. The cost of setting up an independent body to oversee licensing would not be a viable option for the foreseeable future. **Moreover, the nature of taxi and private hire services is such that it is ideally suited in many ways to local decision-making.** Although we will recommend that some nationally set standards may be appropriate, the delivery of licensing functions and decisions would remain firmly at a local level.”*

The sentence marked in bold in the above paragraph appears to display the contradictory nature of the LC document. The explicit acknowledgement that taxi and private hire services are “**ideally suited to local decision making**” quite simply does not equate to how the LC have concluded vast swathes of their document – by effectively taking away many of the powers of local authorities.

At 15.6 the LC state;

“We discuss below how licensing authorities might decide that higher standards are appropriate in their area in respect of taxis, but we suggest there should at least be a lowest common denominator applicable to both categories of services.”

The LC obsession in legitimising cross border activities appears to fall foul of what a local authority might anticipate as a correct standard for a taxi in their area which is over and above the national standards set out by the government. Quite simply an adjoining area may not regulate to the same standards, thus an owner could quite simply license himself there – only to return operating on a private hire circuit.

The same difficulties with enforcement apply – although they are presumably more difficult – as a licensing officer would presumably have to know the rules and regulations of surrounding boroughs.

15.6 states in its final sentence;

“The deregulatory effect is also visible in respect of taxis to the extent that additional local regulation would only be put in place pursuant to local decision-making.”

Again, the paradoxical nature of the LC document suggests local decision making – yet this local decision making doesn’t extend to granting a local authority the power to address the issues arising from deregulation.

15.8 states in its final sentence;

“A consumer that mistakes a licensed private hire vehicle for a taxi would at least not have to worry about strict safety issues, such as Criminal Record Bureau checks for drivers and the roadworthiness of the vehicle.”

The above is then quantified by the following footnote;

“This does not mean that customer confusion is harmless. Passengers travelling in private hire vehicles without pre-booking could lead to any number of problems like excessive fares; a driver getting lost; and unfair competition suffered by the legitimate trades. These are all serious issues but not as critical as safety considerations.”

As pointed out elsewhere in this paper, the LC have failed to cite a single local authority that does not already employ Criminal Record Bureau checks or rudimentary checks of vehicles, 15.8 is therefore mischievous suggesting national standards will cure any current problems. Indeed the footnote actually suggests '**a driver getting lost**', which when we consider local authorities will be unable to apply standards such as knowledge tests to private hire drivers under the LC plans - it raises the question as to whether or not the LC forgot about that?

Furthermore, the problems described by the LC will only be exacerbated by plans to capitulate to cross border hiring.

15.27 states; *"However, our provisional view is that licensing authorities should retain the discretion to impose such requirements provided that they do not fall below national standards"* .

The question of how can they possibly fall below national standards when the local standards are IN ADDITION to national standards does spring to mind.

15.29 states; *"this could potentially provide a useful model for limiting the scope of licensing authorities' discretion to set local standards."*

This is seemingly contradicting the statements in paragraphs 15.5, 15.6 and 15.10.

Issues arising from CHAPTER 19 - REFORMING ENFORCEMENT

Without wishing to be too controversial, it does sadly appear in many respects the LC are quite insane – nothing wrong with that – our association like this characteristic on many different levels – yet we cannot completely understand how or why the LC should consider it necessary to grant local authorities more power than they currently have.

It is clear that the LC are not aware that numerous LA's have granted their officers virtually limitless power in respect of delegated functions; these include the power to immediately suspend drivers (as granted to LA's under section 52 of the Road Safety Act 2006⁹⁸).

In a letter to LA's from the DfT the head of the DfT stated;

“It will be a matter for individual local licensing authorities to determine how they wish to make use of this new power.”

Whilst some local authorities have acted completely responsibly and consulted with the taxi and private hire trades in respect of how (and the occasions when) this new power will be implemented – others have not. Officers granted this unfettered power have immediately suspended drivers for such trivial offences such as over-ranking – one example being Sutton in Ashfield.

Paragraphs 19.4 to 19.6 raise some serious problems in respect of criminal offences in operating unlicensed vehicles, yet the question marked as 64 merely refers to Officers being permitted to stop licensed vehicles. We fail to see the point in highlighting the dangers to the public, without considering a solution.

Question 64 states; *Should authorised licensing officers have the power to stop licensed vehicles?*

We point the following out in respect of fees, wondering if it is right that a licensee in a honey-pot area should pay for the enforcement of vehicles licensed elsewhere. Indeed, the mooted idea of funding coming from a central pot to which all local authorities contribute would fail in respect of Carlisle where vehicles licensed in Scotland (and therefore outside of the scope of English & Welsh legislation) are often seen picking up passengers.

In respect of the above, we are aware of one company that has registered itself in Scotland, with Scottish licensed vehicles and operate at both Newcastle & Manchester Airports.

Are English license fees to pay for Scottish negligence?

Paragraphs 19.7 & 19.8 pertain to the offence of touting; we fail to understand the relevance of this section and indeed the question numbered 65;

“What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers.”

Question 66 states;

“Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules?”

As previously stated, we believe local authorities already have sufficient powers.

Fees

We find the lack of clarity in respect of fees from the LC rather depressing. It is obvious there are great misgivings about the current system. This was mentioned by Transport Secretary Norman Baker in front of the House of Commons transport select committee in respect of a case from Guildford⁹⁹ (and has subsequently come to light in Fenland¹⁰⁰).

The LC only refer to the 'Guildford Case' once in the document at 8.11, we find this quite staggering, as the fees raised from licensing invariably (and arguably illegally) cover the cost of enforcement.

The LC refers to fees at 8.6 suggesting (in echoes of the Berwick case) that licensees may be attracted by lower licensing fees). At 10.23 the LC state;

Moreover, the licensing authority does not receive any licensing fees from such out-of-area cars thus draining their resources which stem from their local trade.

The above is further acknowledged at 10.56, indeed whilst the LC state at 19.30;

"We recognise the importance of funding for effective administration and enforcement of taxi and private hire licensing."

They carry on to state in the same paragraph;

"However the above considerations suggest it would be both premature at this stage of the project, and beyond the scope of this consultation paper, to make specific recommendations in respect of licensing fees."

The LC allude to administration and enforcement costs being separate, yet surely any separation would lead to the same situation as we currently have, where the overall cost of licensing differs from area to area. If we consider the LC wish to legalise cross border

activities, therefore making the current situation worse, we can only imagine these local fees in 'Honey-pot' areas increasing.

To counteract the above (and as previously mentioned) the LC has mooted the idea of local authorities bidding for enforcement funding from a collected national pot of money. The mechanics of this haven't obviously been worked out. Presumably someone will have to decide if a local authority claim is reasonable, they will have to be paid, someone will presumably have to apply and they too will want paid. We envisage a whole new tier of both national and local government being paid to assess the demands of enforcement – the cost of which would be borne by the licensees.

To this end, it could be viewed as more red tape involving bureaucracy of an astonishing level.

Irrespective of the above, the fact remains that 'honey-pot' areas will remain after new legislation becomes active, fees and how enforcement will operate are crucial to any new law. The lack of clarity on this single issue is extremely worrying.

Cab related offences by Constabulary

The LC, to their shame, didn't bother to fully researching the number of cab related sexual assaults and rapes throughout England & Wales – they rather more simply relied upon information available via a 'Google' search. Despite this illogical approach, they stated the following within their impact assessment;

Offences against passengers most commonly include sexual offences, assault and theft. Taking sexual offences as an example, the estimated total cost of £38,359 (in 2011 prices) provides a measure of the economy-wide benefit of preventing sexual crimes. If 111 cases have been reported in London alone, which accounts for about 30 percent of all taxi services, nation-wide the figure must be closer to 400 reported cases.

Les Reid, a cab driver from Manchester, who obtained some of the information used by the LC originally, carried on with the research by submitting FOI's to every constabulary in England and Wales; this information was gathered over a 2 month period and states as follows;

Sexual Assaults and Rapes in Licensed Vehicles, 2011 – 2012

Constabulary	Offences	Number of Licensed Vehicles (2011)
Avon and Somerset Constabulary	100	4189
Bedfordshire Police	9	2340
Cambridgeshire Constabulary	2	2573
Cheshire Constabulary[3]	9	3095
City of London Police (not shown)	0	Same as Metropolitan Police area
Cleveland Police	38	2082
Cumbria Constabulary	1	1381
Derbyshire Constabulary	1	3146

Devon and Cornwall Police	10	4023
Dorset Police	ICO	1831
Durham Constabulary	2	1647
Essex Police	ICO	5212
Gloucestershire Constabulary	8	1372
Greater Manchester Police	109	11892
Hampshire Constabulary	ICO	5565
Hertfordshire Constabulary	9	3785
Humberside Police	8	3019
Kent Police	2	4231
Lancashire Constabulary[3]	11	5274
Leicestershire Constabulary	17	2546
Lincolnshire Police	2	1645
Merseyside Police	22	8919
Metropolitan Police	111	75733
Norfolk Constabulary	4	2062
Northamptonshire Police	1	1734
Northumbria Police	1	6480
North Yorkshire Police	3	2167
Nottinghamshire Police	15	3042
South Yorkshire Police	ICO	4297
Staffordshire Police[4]	ICO	3058
Suffolk Constabulary	2	1715
Surrey Police	3	3844

Sussex Police	3	5106
Thames Valley Police	ICO	7805
Warwickshire Police	0	1093
West Mercia Police[4]	14	2697
West Midlands Police	58	12344
West Yorkshire Police		11645
Wiltshire Police	5	1847
Dyfed-Powys Police (Heddlu Dyfed Powys)	5	1213
Gwent Police (Heddlu Gwent)	13	1654
North Wales Police (Heddlu Gogledd Cymru)	6	1900
South Wales Police (Heddlu De Cymru)	13	4743
Total	517	235946

Source: Mr. Les Reid, Freedom of Information requests July 2012

Figures as of Sunday 9th September 2012

'ICO' denotes the Constabulary has been reported to the Information Commissioner for refusal to provide information.

Responses have been received from 85% of Police Authorities, reporting some 517 attacks, 15% are yet to respond.

Using the L.C. theme of expanding, our expanded figure now becomes; $517 \times 1.15 = 595$

According to the Stern review¹ (conducted by Baroness Stern), 38% of sex attacks go unreported. We know from the review that 38% of sex assaults go unreported, but 90% of rapes go unreported.

Taking the lower figure 38, indicates our 595 was 62% of the actual offences.

$595 \div 62 \times 100 = 960$ sex attacks (figure rounded up)

960 is not a fanciful figure, this is a realistic estimate, using sound mathematics. The attack figures are over double the Law Commission estimate. Manchester police themselves state sex attacks in the City are up 11% year on year². Our research shows Manchester Cab related attack for 2010 = 98. Manchester cab attacks for 2011= 109 an increase of 10.1%, supporting the GMP statement to the press.

The Law Commission states the following in their impact assessment;

Offences against passengers most commonly include sexual offences, assault and theft. Taking sexual offences as an example, the estimated total cost of £38,359 (in 2011 prices) provides a measure of the economy-wide benefit of preventing sexual crimes.

The Stern report states;

Each adult rape is estimated to cost over £96,000 in its emotional and physical impact on the victims, lost economic output due to convalescence, treatment costs to health services and costs incurred in the criminal justice system.

Quite how we can have a £57,000 difference in the estimated costs is another concern.

¹ <http://www.homeoffice.gov.uk/publications/crime/call-end-violence-women-girls/government-stern-review?view=Binary>

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Ranking Issues

The LC had a somewhat dismissive attitude to the issues surrounding taxi ranks; they neglected to mention this highly important issue. The obvious point is that the taxi trade in the majority of the country is very rarely hired by customers by way of street hails; the majority of the work is therefore attained via taxi ranks or radio circuits.

The LC attitude towards ranks was highlighted in an email to the Chairman of the South Sefton Taxi Association (names omitted);

*****,

Ranks or stands were something we gave a great deal of thought to in preparing the consultation paper, but ultimately we felt that they should not be included. This is because there is very little different law reform could make - the current problems stem from issues concerning resource allocation, communication between different agencies and competition for road space. The Law Commission has been tasked with proposing a new legal framework, rather than looking at the specific content of this framework, and it would not be for us to dictate how local authorities should use their powers and resources. We appreciate that this is a significant issue, and that our response is no doubt disappointing to you, but unfortunately it is not one which we felt it would be appropriate for us to tackle.

I hope this answers your question.

It is very noticeable the LC is aware of the difficulties with competition for road space between agencies, however, irrespective of the LC view, the only area where a taxi can stand for hire is a taxi rank. It is equally obvious that issuing additional licenses without creating additional space for them to stand for hire is patently ridiculous.

In respect of space for taxis the book by "Button" states at 8.154¹⁰¹;

“Realistically, it must always be expected that some vehicles will be unable to rank at any given time and they will either be plying for hire, undertaking hire or simply not working at that particular time.”

If Mr. Button, who is a Law Commission consultant, is to be believed, it would, from his line of thinking create a need for additional ranking space upon deregulation. The ratio, given the rationale would be one space for every 3 to 4 vehicles.

The following has been obtained from DFT statistics recently released, the authorities selected have deregulated and in some cases re-regulated, the table indicates the additional ranking required (but in no case attained) for additional taxi stands;

Authority	2005 taxis	2011 taxis	Difference	Button method	2005 Spaces	2012 Spaces	Difference
Sheffield	547	857	+310	103	150	270	+120
Cardiff	481	957	+476	158	56	78	+22
Watford	73	303	+230	76	53	57	+4
Denbighshire	109	255	+146	48	60	75	+15
Chelmsford	102	169	+67	22			
Milton Keynes	120	207	+87	29	59	71	+11
Bristol	650	796	+146	48		170	
Wolverhampton	92	160	+68	22			
North East Lincs	121	235	+114	38		80 (12)	
Chesterfield	103	177	+70	23			
Southend	227	276	+49	16			

It is reasonably obvious to anyone, but apparently not within the grasp of the LC, that any new law should have some type of mechanism for taxi ranks – ideally it should also have some type of calculation towards the number of rank spaces reasonably required within a district.

Looking at the figures themselves, from the responses received from local authorities it is obvious in all cases (with the exception of NE Lincolnshire) no local authority has any correlation between rank spaces and the number of vehicles they license as taxis.

Again, these statistics were easily available for the LC to consider; indeed, they could have (although they didn't) asked each local authority how many additional ranking spaces they've allocated since a certain date. The fact the LC have neglected this highly important aspect of the taxi business should be quite illuminating – but sadly – the doctrinal approach suggests it actually isn't any surprise. It's just purely neglect and shoddiness – neglect and shoddiness costing the tax payer £375,000.

Signage

We believe the following extract from Hansard in the House of Lords debate in respect of the 1976 act is often one that has been overlooked by Local Authorities and indeed taxi associations;

Lord LEATHERLAND

Let us assume that I have hired a car and have taken some of my friends to a banquet. Do I, when I roll up in the Rolls-Royce at the Mansion House or Buckingham Palace, want to see a notice across the roof of my Rolls-Royce saying: " Bloggs and Company, Car-Hirers and Funeral Directors "? If one hires a private car one wants to have the appearance of a private car. Then the noble Lord referred to the time when the banquet had finished and the chauffeurs were trying to trace the people who had hired the cars. On such formal occasions where I have been present somebody has called out, " Lord Leatherland's car ", and my car has duly appeared. Surely, at a well regulated function the hirer of the car who wanted his car to be brought and made available to him would notify the porter to that effect; the porter would then send his chain of communication into action and the car would roll up. I hardly think it is worth while destroying and undermining the dignity of the private car which we would hire by having a trade notice put either on the side of the vehicle or on its roof.

Lord AIREDALE

It all depends on there being a porter available. Some of the banquets to which I go—perhaps they are not very smart—do not always have a porter. There are two matters which the noble Lord, Lord Leatherland, did not appreciate; I could not have made them clear when I was speaking. I was not talking about people who hired cars to go to banquets; I was talking about several people who emerged from a banquet at the same time, and who at the same moment wanted to be met by cars which they had ordered to pick them up. The noble Lord, if he reads the proviso in this Amendment, will see that it says that the operator should be permitted to display a sign if he wants to do so. If he is going to Buckingham Palace and the customer says, " I would rather not have a vulgar sign on the car driving into the forecourt of Buckingham Palace " then the operator does not have to have the sign on the car on that particular occasion.

We believe Lord Leatherhead and Lord Airedale during July 1976 actually demonstrate in this exchange a number of things in respect of Private Hire. Invariably it's the customer choice aspect, some customers want discretion, some customers want executive vehicles, some customers want a cheap service.

Would it end in Tiers?

We can understand the above mentioned view.

The concept the LC are trying to address in many respects is difficult. The very nature of private hire, in particularly the LC inclusion of wedding and funeral vehicles, basically ensures that PH cover minicabs, executive hire, wedding hire, funeral hire, novelty vehicles, minibus hire, airport specialists and so on.

Where it is unreasonable to perhaps expect a funeral business to have vehicles where a driver must sit a local knowledge test, it is not so unreasonable to expect that standard from the driver of a minicab, particularly if a local authority is in receipt of complaints.

A wedding hire company may have a fleet of vintage vehicles; it is neither practical nor reasonable to expect them to have the same emission standards as minicabs, vehicles that will undoubtedly be hired more times on a single day, than a wedding car is hired in a month.

Given the differences between the various models of private hire we believe it should be considered that differing types of private hire license are established.

End notes

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³ <http://www.bbc.co.uk/news/uk-15187154>

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⁵ <http://www.prweb.com/releases/prweb2012/7/prweb9698322.htm>

⁶ Pg 19 para. 2.32, pg 20 para. 2.33, pg 158 para. 13.5

⁷ Advisory group document; Nov 2011, page 10

⁸ https://www.alliance-leicestercommercialbank.co.uk/bizguides/full/icecream/parkes-legal_matters.asp

⁹ <http://www.guardian.co.uk/business/2012/jun/21/markets-fall-gloomy-us-forecast>

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¹¹ <http://www.etcproceedings.org/paper/the-economics-of-taxi-industry-regulation>

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Chapter 13 – Overview of Provisional Reform Proposals

Provisional Proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks and private hire vehicles which can only accept pre-booked fares (Page 160).

Answer:

We agree with this proposal; our association believe future law should distinguish between taxis and private hire.

Chapter 14 – Reform of Definitions and Scope

Provisional Proposal 2

London should be included, with appropriate modifications, within the scope of reform (Page 162).

Answer:

Our association believe there is a case for London being treated different to the rest of the country.

Provisional Proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver (Page 164).

Answer:

The 1847 act is reasonably clear in respect of this provisional proposal; every wheeled carriage; We see little point in removing ourselves from this sensible piece of 160 year old legislation.

Question 4

Would there be, and if so what, advantages to restricting licensing to motor vehicles that require a driving licence? (Page 164)

Answer:

The Association believe that the licensing is not entirely in relation to the vehicle but also its drivers and, thus, the general public, must be protected. They believe that the concept of carrying passengers in the course of a business is the right criterion.

Provisional Proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles and taxi and private hire vehicles should only cover vehicles that are adapted to seat 8 or fewer passengers (Page 165).

Answer:

The Association believes that it is right to exclude public service vehicles from the definition. These vehicles are intrinsically different in their specification and function.

The existing licensing regime bringing only vehicles seating up to 8 people within it appears to be a sensible one. There has to be a cut off point somewhere as a bus is simply not the same vehicle as a motor car. There are obviously difficulties in looking at e.g. stretched limousines which might have 8 or more seats.

Provisional Proposal 6

References to stage coaches charging separate fares should no longer feature as an exclusion from the definition of taxis (Page 166)

Answer:

The Association believes that this should be abolished. Both taxis and private hire vehicles should be entitled to charge separate fares. The experience that the Association has is that the sort of arrangements that were envisaged by the 1985 Transport Act have not proven very successful either operationally or indeed with the public.

Provisional Proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency (Page 167)

Answer:

We Believe the law is reasonably simple, once a vehicle has more than the prescribed number of passenger seats it can no longer be either a taxi or private hire vehicle – in these cases the vehicle should be under the remit of the Traffic Commissioners & VOSA.

Provisional Proposal 8

The concept of “in the course of business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service (Page 168)

Answer:

We cannot see the logic of excluding ‘volunteer drivers’, we would appreciate a definition of the word ‘genuine’ in respect of the proposal.

Question 9

How, if at all, should the regulation of taxis and private hire deal with: -

- (a) Carpooling; and
- (b) Members Clubs? (Page 170)

Answer:

These are matters with which the Association has little involvement but, they do believe that regulation of carpooling would appear unnecessary.

If there was no financial advantage then member’s clubs might also escape regulation although, once again, it is apprehended that the members of clubs should be no less entitled to be conveyed in safety than anyone else.

Provisional Proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes (Page 171).

Answer:

We do not believe the Ministers should be setting standards for localised issues such as private hire and taxis. We believe locals are best placed to determine standards.

Provisional Proposal 11

Weddings and funerals should no longer be expressly excluded from private hire licensing through primary legislation (Page 172).

Answer:

We believe the law at present is perfectly clear on the issue – and once either a wedding or funeral car steps outside the confines of current legislation, they would need to be licensed.

Question 12

Would there be merits in reintroducing the contract exemption by means of the Secretary of State and Welsh Ministers’ exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse? (Page 174)

Answer:

We answer this question in our imaginatively titled section “Reinstating the contract exemption?”

Provisional Proposal 13

Regulation of the way taxis and private hire vehicles can engage with the public should not be limited to “streets” (Page 175).

Answer:

We believe there should be a definition of ‘streets’ which may include them in respect of public access.

Provisional Proposal 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers or to the closest taxi rank? (Page 177)

Answer:

Our association believe all transport interchanges should be free of concessionary arrangements for taxis.

Provisional Proposal 15

The defining feature of taxis, the concept of “plying for hire” should be placed on a statutory footing and include: -

- (a) References to ranking and hailing;
- (b) A non-exhaustive of list of factors indicating plying for hire; and
- (c) Appropriate accommodation of the legitimate activities of private hire vehicles (Page 181).

Answer:

The Association agree with this proposal.

Provisional Proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services (Page 181)

Answer:

Our association agree with this proposal and agree with the rationale outlined in 14.75.

Provisional Proposal 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”? (Page 182)

Answer:

Our association agree with the first two sentences outlined in 14.79.

Provisional Proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained (Page 182).

Answer:

The Association believes that the concept of compellability should be retained. It is part of the service that is offered. However, they do believe that it is necessary to retain safeguards of the type that are presently found in Section 53 of the Town Police Clauses Act 1847 which enables a driver to refuse a fare if there is a reasonable excuse.

Provisional Proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked (Page 183).

Answer:

The Association are in agreement with this proposition.

Provisional Proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would, however, be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved (Page 184).

Answer:

Our association believe that allowing non-licensed driver to driver licensed vehicles makes for a potential loophole in legislation, we oppose this proposal.

Provisional Proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements (Page 185).

Answer:

We believe local authorities are best placed to decide taxi and private hire arrangements for their areas.

Provisional Proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “Hackney Carriages” should be abandoned (Page 185).

Answer:

The Association agree with this proposal.

Question 23

Should private hire vehicles be able to use terms should as “taxi” of “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion? (Page 186)

Answer:

Private hire should be expressly forbidden from using the terms mentioned in the question.

Chapter 15 – A Reformed Regulatory Framework

Provisional Proposal 24

Taxi and private hire services should each be subject to national safety requirements (Page 188).

Answer:

We disagree with National Standards as we believe locals are best placed to decide – sadly we can only guess as to what the national standards would be – we therefore cannot comment beyond what we have already written.

Provisional Proposal 25

National safety standards, as applied to taxi services, should only be minimum standards (Page 189).

Answer:

We disagree with National Standards as we believe locals are best placed to decide – sadly we can only guess as to what the national standards would be – we therefore cannot comment beyond what we have already written.

Provisional Proposal 26

National safety standards, as applied to private hire vehicles, should be mandatory standards (Page 189).

Answer:

We disagree with National Standards as we believe locals are best placed to decide – sadly we can only guess as to what the national standards would be – we therefore cannot comment beyond what we have already written.

Provisional Proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no longer apply to private hire drivers (Page 190).

Answer:

We disagree with National Standards as we believe locals are best placed to decide – sadly we can only guess as to what the national standards would be – we therefore cannot comment beyond what we have already written.

Question 28

Should local standard-setting of private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? (Page 190)

Answer:

The Association have long sought to prevent the blurring of the distinction between a taxi which has a function to fulfil and a private hire vehicle whose use is different. However, they believe that so far as possible similar standards should apply.

It has always been their policy to seek to avoid roof signs on private hire vehicles which have simply served to confuse. They do not believe that this is a local issue. The need to identify one operation as against another prevails anywhere in the country.

Standards should be locally set.

Provisional Proposal 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? (Page 191)

Answer:

We disagree with National Standards as we believe locals are best placed to decide – sadly we can only guess as to what the national standards would be – we therefore cannot comment beyond what we have already written.

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (Page 192)

Answer:

We disagree with National Standards as we believe locals are best placed to decide – sadly we can only guess as to what the national standards would be – we therefore cannot comment beyond what we have already written.

Provisional Proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should only cover conditions relating to safety. (Page 192)

Answer:

Locals are best placed to decide it is difficult to agree with a policy that removes that right.

Provisional Proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. (Page 193)

Answer:

Locals are best placed to decide it is difficult to agree with a policy that removes that right.

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? (Page 193)

Answer:

A difficult question to answer if our policy is that locals are best placed.

Provisional Proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. (Page 193)

Answer:

Locals should be permitted to set standards for all vehicles they license.

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? (Page 194)

Answer:

We do not believe standards should be set nationally.

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? (Page 194)

Answer:

Because the Association believes that local authorities are best placed to deal with local conditions etc, we would support licensing authorities retaining the power to impose individual conditions subject, of course, to appropriate safeguards.

We believe byelaws should be retained in respect of Hackney Carriage drivers.

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? (Page 195)

Answer:

We believe local authorities are best placed to decide such matters.

Provisional Proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. (Page 196)

Answer:

We believe local authorities are best placed to decide such matters.

Provisional Proposal 39

Licensing authorities should have the option to create or remove taxi zones within their area. (Page 196)

Answer:

We believe local authorities are best placed to decide such matters.

Question 40

Would it be useful for licensing officers to have the power to issue peak time licences which may only be used at certain times of the day as prescribed by the licensing authority? (Page 197)

Answer:

We believe peak time licenses will destroy the taxi trade.

Provisional Proposal 41

Private hire operates should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority (Page 198)

Answer:

We have addressed this issue at length in our response (the pleasure was all ours); we firmly believe all 3 licenses (PH Driver, PH Vehicle & PH Operator) should match.

Provisional Proposal 42

We do not propose to introduce a “return to area” requirement in respect of out of the area drop offs. (Page 199)

Answer:

We sadly think this proposal is rather mad, we therefore disagree.

Provisional Proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares. (Page 200)

Answer:

We agree for the reasons set out in our paper.

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (Page 200)

Answer:

Current law is quite clear on this issue, a taxi can only charge the council set fare for hiring's within its prescribed distance – we believe this is a sensible provision.

Chapter 16 – Reform of Driver, Vehicle and Operator Licensing

Question 45

Should national driver safety standards such as the requirement to be a “fit and proper person” be either: -

-
- (a) Set out in primary legislation; or
 - (b) Included with the Secretary of State and Welsh Ministers general powers to set national safety conditions? (Page 203)

Answer:

We believe the definition of fit and proper should be left to local authorities as this permits local authority discretion.

Provisional Proposal 46

Vehicle owners should not be subject to “fit and proper” tests though the criteria applied would relate solely to the vehicle itself. (Page 204)

Answer:

The Association believes that these tests are essential in the interest of protecting the public.

Question 47

Should national vehicle safety standards be either: -

- (a) Set out in primary legislation: or
- (b) Included within the Secretary of State and Welsh Ministers’ general power to set national safety conditions? (Page 205)

Answer:

Our association believe this is a matter best left for local authorities

Provisional Proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. (Page 207)

Answer:

The Association support this.

Question 49

Should operator licensing be extended to cover taxi radio circuits and, if so, on what basis?
(Page 208)

Answer:

The Association believe there are sound reasons for this type of extension; the basis is exactly the same as to why PH circuits need licensed – the collation of personal data – and a potential loophole in deregulated areas where fleets have moved from predominantly PH to HC.

Provisional Proposal 50

The definition of operators should not be extended in order to include intermediaries.
(Page 209)

Answer:

The Association disagree with this proposition subject to further investigation; the description of an intermediary is potentially quite expansive. Would for example a barmaid obtaining a taxi (or PH) be described in the same manner as perhaps a hotel concierge whom may be paid by a certain company to contact them when transport is required by hotel guests. – (given what we have written please take this as a compliment.....good question!)

Question 51

Should “fit and proper” criteria in respect of operators be retained? (Page 210)

Answer:

For reasons given in response to the previous enquiries the Association believes that it is essential that these criteria are retained.

Provisional Proposal 52

Operators should be expressly permitted to sub-contract services. (Page 210)

Answer:

We believe operators should not be permitted to sub contract work across district borders.

Question 53

Where are taxi driver takes a pre-booking directly, should record keeping requirements apply? (Page 210)

Answer:

A taxi driver should not be obliged to keep records; the nature of the job would make this impossible.

Chapter 17 – Reforming Quantity Controls

Provisional Proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers (Page 213)

Answer:

Where the LC use the word ‘restrict’ we would say ‘control’. A local authority should have the power to determine how many taxis can operate within their area.

Question 55

What problems, (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? (Page 213)

Answer:

Increases in the suicide rate, illnesses, divorce rates, domestic violence, and bankruptcies. – All evidence available via the taxi hardship panel from the Republic of Ireland.

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time if quantity restrictions are removed? (Page 215)

Answer:

We don't believe quantity 'controls' should be removed for some of the reasons stated in question 55. We additionally point out the rationale to the question is one describing potential problems; we therefore wonder why this is being pursued.

Chapter 18 – Taxi and Private Hire Reform and Equality

Question 57

Should there be a separate licence category for wheelchair accessible vehicles? This could involve: -

- (1) A duty on the licensee to give priority to disabled passengers; and
- (2) A duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. (Page 217)

Answer:

We believe locals are best placed to determine the taxi requirements of their area, we agree that local authorities should have a duty to make adequate provision of taxi ranks. (Yes we realise we answered that a little bit wrongly, but you should have evidence of a pitiful number of rank spaces across the country).

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? (Page 217)

Answer:

Local authorities already have this discretion and there are numerous local authorities that offer lower license fees for accessible vehicles.

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles and catering for the different needs of disabled passengers? (Page 217)

Answer:

We find this question quite amazing, the law commission state in their document in respect of private hire that they believe it works perfectly well, yet only 2.3% of the PH fleet are accessible.

It needs to be pointed out that numerous PH firms have been reported for charging more for the wheelchair bound than the able bodied; especially given the evidence.

Provisional Proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. (Page 218)

Answer:

There are various members of the Association whose local authorities have policies requiring vehicles to be wheelchair accessible. The Association do not support approaching the matter in a “blanket” fashion.

The Association sees little point in introducing national quotas especially as circumstances will vary from one area to another. This is, once again, a matter, if it is to be dealt with at all, that should be dealt with by local authorities.

Provisional Proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. (Page 219)

Answer

We believe locals are best placed to decide.

Provisional Proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. (Page 219)

Answer:

We believe locals are best placed to decide on such matters.

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? (Page 220)

Answer:

We sympathise with the LC in respect of this question, the answer is extremely difficult. Disability covers a multitude of ailments – unless the passenger were wheelchair bound it would be difficult for a driver to identify a passenger with a disability.

We cannot suggest a solution as we do not have one – however in our experience the majority of wheelchair bound passengers are a lot better at arranging taxi services than their able bodied counterparts.

Chapter 19 – Reforming Enforcement

Question 64

Should authorised licensing officers have the power to stop licensed vehicles? (Page 222)

Answer:

The Association do not favour this.

Question 65

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”. (Page 223)

Answer:

Those who perpetrate these offences well know that they are doing so and education really is not a viable aspect.

The only way to deal with these matters is through enforcement. More licensing officers need to become involved to apprehend those who are involved in touting. There are public order issues because if drivers are seen touting by other drivers who are licensed it can very often lead to violence.

The other way to deal with this is through sentencing but, magistrates obviously have guidelines handed down to them from above and it is thought that there will be need for legislation perhaps by way of Statutory Instrument to interfere with any present scales or guidelines.

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? (Page 223)

Answer:

The correct approach is surely properly to deal with the driver – firing squad should suffice.

Question 67

Should licensing authorities make greater use of fixed penalty schemes and, if so, how? (Page 225)

Answer:

We do not support fixed penalty schemes; legislation where a driver maybe fined is already available in both the 1847 & 1976 Acts – and much underused.

Provisional Proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. (Page 225)

Answer:

We do not support this proposal; licensing officers would have to know the regulations and rules of many local authorities due to the LC position on cross border – we would believe professional courtesy across district borders by local authorities would largely solve this problem.

Question 69

Should cross-border enforcement powers extend to the suspension and revocation of licences? If so, what would be the best way of achieving this? (Page 226)

Answer:

We do not support this proposal; licensing officers would have to know the regulations and rules of many local authorities due to the LC position on cross border – we would believe professional courtesy across district borders by local authorities would largely solve this problem.

Chapter 20 – Reform of Hearings and Appeals

Provisional Proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder or the relevant licence. (Page 230)

Answer:

The Association believe that the present arrangements are entirely adequate. Their view, on balance, is that a “person aggrieved” should be empowered to appeal. The reason for that is that such an appeal is possible by way of judicial review but the cost of such an appeal is utterly prohibitive.

Provisional Proposal 71

The first stage in the appeal process throughout England and Wales in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. (Page 231)

Answer:

We agree with this proposal (which already occurs in many areas).

Provisional Proposal 72

Appeals should continue to be heard in the Magistrates Court. (Page 232)

Answer:

The Association agree with this proposal.

Question 73

Should there be an onward right of appeal to the Crown Court? (Page 233)

Answer:

The Association support the existing right of appeal to the Crown Court.

Dated this 9th day of September 2012

WJ Casey

Carlisle Taxi Owners Association



"Bad laws are the worst sort of tyranny."

Edmund Burke

A response to the Law Commission

Foreword

The Carlisle Taxi Owners Association (CTOA) is a representative body of both hackney carriage proprietors and drivers from Carlisle, Cumbria; we have represented the taxi trade since the 1960's at both local level, in being a stakeholder with our local authority, and national level by virtue of our membership of the National Taxi Association (NTA).

The general opinion of the association in respect of the consultation by the Law Commission (L.C.) is one of disappointment and lost opportunity. It would appear the LC has lost sight of their initial aim of reducing burdensome legislation, by suggesting more regulation.¹

It would be neglectful of this association to fail to point out that for the Law Commission, a body emanating from the law profession, to point towards unnecessary regulatory burdens in the taxi and private hire industries is ironic in the extreme; the law profession is seemly awash with arguments about minimum wage² and 'Tesco Law'³.

The Law Society stated the following in respect of the minimum wage;

"The Law Society was concerned that the result of this decision will be that trainees who will be offered the reduced minimum salary, who are likely already to have substantial debts, will find themselves in significant financial difficulty and forced to take on other work which will distract them from giving full attention to the training contract. Alternatively, those trainees who have private means will receive an undue advantage over potentially more meritorious candidates. Neither result will be good for the diversity of the profession."

Our association had great misgivings about the remit given to the L.C. at a very early stage, coming into the project with a political theory - the recurring theme of a deregulatory objective - in our belief offered only a dogmatic view and prospective outcome. The remit given appears to be one of the LC being advocates of hard measure, one of seeing the taxi trade as an industry in need of serious correction.

In many respects our initial view appears to have been correct, the almost Machiavellian manner in which the rationale of the documents differ from the provisional proposals reek

of a type of voodoo very often associated with politics. In this manner it is difficult to disassociate the L.C. as nothing more than advocates of the pre-ordained political agenda – we have always considered a matter as relatively mundane as ‘taxis’ as reasonably aloof from political aspiration – sadly we find ourselves amidst that particular world.

The laissez-faire approach to private hire, advocated by the L.C. is ostensibly not deemed correct for hackney carriages; the LC cites (quite rightly) local control. This stance does not however extend to locals being best placed to decide on a seemingly more controversial issue such as control of taxi numbers – the stance of the L.C. appears to be - *locals are best placed to decide, just not best placed to decide certain things* – this would appear to be a somewhat duplicitous position.

We found the consultation documents badly structured, thought out and repetitive, with little rationale between questions, the majority of which were seemingly placed in no specific order, a true rigmarole of documents in the original sense. The questions themselves appear to be based upon presumptions therefore they were difficult to answer and in cases misleading – numerous members advised us they believed this was a deliberate ploy.

The structure of the documents have also created concern, an obvious point is at 1.27 where the L.C. point to ‘grey areas’ in the licensing of limousines, these points are rehashed at various areas in the documents, however limousines are mentioned regularly in many parts, thus confusing many of us 3.63, 3.66, 3.77 – 3.84, 4.49, 4.51, 4.52, 8.15, 13.5, 14.3, 14.23 & 20.10

It is patently obvious to anyone with any degree of knowledge or interest in the taxi and private hire industries, that vast swathes of the consultation documents have not been assembled via the route of discussion with the industries, but via a ‘Google’ search facility on an office computer. Not that this in itself is wrong, although the impact assessment is giving links via a ‘Google’ search. We would contend that the cab trade is a very diverse industry; however, we would contend that this type of research is not conducive to the best and most accurate results or opinions.

The above point was summarily confirmed when the L.C. felt the need within three weeks to rehash their impact assessment, they had made an almost elementary mistake in grossly underestimating the turnover of the taxi and private hire industries. The following was stated on the L.C. website;

"Following feedback we produced a revised draft of the impact assessment stripping out the data which appears unsatisfactory or not robust and to ask further questions. We welcome further comment on the data and would be grateful for further information." ⁴

The updated figure is £2.585 billion, as compared to £1.4 billion previously, demonstrates quite a dramatic miscalculation. It is obviously illuminating to find out where the LC obtained their original figures, a 'dot com' website being cited where an interested party would have to pay to scrutinize. There are some that would suggest this was a deliberate ploy, invariably when faced with a website where money requested, the link is usually closed. A further report from IBIS world recently suggested the figure was closer to £8.85 billion⁵, further throwing LC figures into ignominy.

We also wish to point out that to allow a mere three months to answer the consultation – given that all members of our association are working taxi drivers is a serious worry – whilst we appreciate the issue of taxis and private hire are of little consequence to the majority of the UK population – it is of great significance to ourselves – ultimately we will be the ones left to work with any future law.

It is amazing that a law that has stood – practically unchanged since 1847 and is perfectly workable some 160 years later - is subject to the (political) expediency it is currently being seemingly exposed to. An extended period of around 6 months would have been (and still is) appreciated from our association – although we understand the L.C. has extended the consultation period by the somewhat miserly period of one month (the new date being 10th September 2012).

The problem isn't so much answering the consultation, although that will be troublesome enough; it will be collating the answers by our national body.

As anyone who has ever sown a lawn will know, for every few seeds scattered only a few will actually germinate (unless you use some bizarre pre-germination rouse using cold tea), in many respects the LC document is like this. There are a few ideas of very little merit seemingly punted into the document possibly in the knowledge they'll be dropped in the future. However, it doesn't take a genius to realize where the sights are actually aimed at.

We also question the L.C. commitment with regards to the retention of the two tier system, although we firmly believe there is a place in the system for hackney carriages. It is reasonably obvious that private hire covers a multitude of differing business models – a miniscule amount of lateral thinking should lead to the realization that to expect a single tier to cover half a dozen or so differing business models under the umbrella of a single license is foolhardy in the extreme. We will raise this question within this paper.

We are disillusioned to read the view of the L.C. in respect of “*market failures that are specific to the taxi market*”⁶. The association considers this view demonstrates a rather alarming lack of understanding of the taxi trade. We found it quite amazing that the LC appear to have trawled Europe in their quest for the deregulatory justification in their documents, but have not gone to the same lengths to seek the true socio economic effects of their policy.

Taxis are a localised form of transport, whilst we acknowledge the L.C. would currently like to continue licensing vehicles on a localised level, we view the erosion of local authority powers in respect of licensing private hire on a national basis as extremely damaging – and without forethought to the consequences.

The comments regarding the night time economy show a total ignorance of the night time economy in the majority of the country – they appear to base their views around metropolises as opposed to the vast majority of the country.

The entire vision of the L.C. proposals would appear to hinge on National Standards being set for both private hire drivers and private hire vehicles. It is clear from the documentation the L.C. has little idea of what these national standards may be, this is a

worrying position, as unless people are aware of the standards they have little idea what they are in fact agreeing to.

The above being stated, the rationale behind the standards has been thought out, the thought being, if all standards are the same there would be little point in licensees 'shopping around' for perceived lax licensing regimes. Of course, and as mentioned, by not actually advising what the standards will be, by leaving that area open to differing interpretation (and suggesting a cheap and cheerful), the general view is that the standards will be minimal. A national standard would after all include not only places such as London, but rural areas where businesses may be run without great profit.

Our association believes the standards mentioned above should be set locally; it is locals that have to live with taxi and private hire services and it is equally obvious they are the ones also best placed to determine the purely localised services for both taxis and private hire vehicles. We believe a deviation from this core principle of 'localism' is perverse to one of the coalition government flagship policies and we are highly surprised the L.C. would choose to rule private hire direct from Whitehall.

Indeed, we find it astounding that a large proportion of the issues surround the issue of enforcement, yet the L.C. 'do not think it appropriate to reconsider the issue of cost recovery'⁷. One has a huge impact upon the other.

Great swathes of the LC documents hinge upon interlinked policy, these include the national standards mentioned above, license fees, enforcement and so on – it is incredibly complicated and like a house of cards, each piece is very much dependent upon the other.

We will in the next few pages carry on dissecting the papers, however it would be folly of us not to point out our belief that this is nothing other than an exercise in futility, we sadly believe the L.C. has a closed mind on many issues and in many respects, irrespective of the persuasiveness of our arguments we face a 'fait accompli'.

The Law Commission state the customer should be at the heart of legislation; given their plans presumably everybody should be free to choose the company they wish to get lost

with. In terms of driver safety, the LC appear to have given that the same amount of thought as the average person does each day about the socks they'll wear to work.

It is unlikely, due to the political agenda set out within the remit the L.C. are working to, that they will have an epiphany.

There are numerous difficulties in writing a response, without questioning the reasoning behind the position of the L.C. my association will attempt this over the next few pages. We fear many of those answering will be inadvertently agreeing to statements they do not comprehend, the consultation responses could therefore present a modern day "ragman's roll" of consent.

Wayne Casey, Chairman, Carlisle Taxi Association

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Acknowledgments

We wish to thank **Les Reid** of Manchester for his assistance in compiling the crime statistics detailed within this document, his persistence in the face of some Police Authority reluctance made these figures possible.

We wish to thank **Adam Brown** of St. Albans who forwarded us documents and opinions from the other end of the country proving we weren't quite as mad as we thought we were when we started this paper – our suspicions were shared.

We wish to thank **Charles Rathbone**, Curator of the Taxi Library, who began working as a taxicab driver in San Francisco in 1975. He also worked as a labour and community organizer. He operated a cab as a single-shift independent owner-driver and as an employer with his own one-cab micro-fleet! He currently works as an assistant manager at a fleet with 200 cabs.

Charles earned a BA degree in Geography from the University of California at Berkeley, and satisfied a wanderlust that took him to 40 states and 33 countries.

Contents

Foreword2

Acknowledgements8

Contents.....9

Economics10

A Happy Conspiracy?15

The rather bizarre impact assessment22

Problems with the L.C Documents32

Problems with the Law?38

Excessive burdens on business.....43

A rebuff of chapter 9 Quantity Restrictions53

A rebuff of Chapter 10 Cross-border issues.....68

Consideration of Chapter 11 Equality and taxis in the community.....74

Consideration of Chapter 12 Technology.....77

Consideration of Chapter 13 – Overview of provisional reform proposals.....80

Zoning.....84

Consideration of Chapter 14 – Reform of Definitions & Scope.....86

Fees.....100

Cab related offences by Constabulary.....102

Endnotes111

Law commission Provisional Proposals & Questions116

Economics

In the words of Richard Percival to the NTA Conference in Scarborough;

“A general point here is that this whole deregulatory move is based on the idea that, by and large, open competition in a capitalist economy is the best way of delivering goods and services. That is the general view and that is part of where we have to start. Now if that is the starting point then one argument that isn’t going to be so persuasive is that you need to have certain regulatory features in place because it guarantees your income.”

Without wishing to doubt the words of Mr. Percival it is quite obvious the majority of the Capitalist economy is not subject to open competition, in fact all businesses are subject to regulations of some description. A person simply cannot open a shop on a high street and declare themselves as solicitors in much the same manner as a person cannot simply walk into a bus depot and declare they are a bus driver.

Indeed, even a relatively simple looking business such as an ice-cream van is subject to all manner of rules and regulations that are within the interests of the general public – many of these regulations are localised and differ from area to area.⁸

Sadly, our association do not believe there is going to be any mileage in trying to convert Mr Percival from the darkside. Those espousing the free market do so in worship to a god, the god of the market, we are told the markets are gloomy⁹ or the market is buoyant¹⁰, in the general sense the market is not so much a living entity, but an omnipresent being. When the market is angry all will suffer. The market supporters are merely acolytes, like those that worshiped the golden calf in the story of Moses.

The words of Mr. Percival typify the doctrinal ‘deregulatory’ approach of the L.C. it also demonstrates a gross misunderstanding of the taxi industry.

Regulations towards numbers controls are not put in place because local authorities wish to see taxi proprietors have a guaranteed income, or for licenses to act as retirement funds, they are put in place to ensure the public interest.

Andreas Kopp, Lead Economist at The World Bank stated; *“Perfect competition requires that consumers can choose between different producers”*¹¹ He carried on to state;

“The positive expectations with respect to deregulation of the taxi industry were based on the belief that the industry is an atomistic industry with minor fixed costs which should therefore develop into a perfectly competitive industry, providing taxi services at minimum costs. Given the experience with the deregulation of the taxi industry these expectations seem to have been naive.”

It is obvious the ‘perfect competition’ mentioned by Andreas Kopp can never happen in the taxi market, there are simply too many imperfections to ensure perfect competition. A customer for example may not wish to walk down a line of taxis and question each driver about cost, a customer may well be hailing a cab with little certainty when the next cab may pass, additionally a customer may be standing in a queue, in these cases negotiation with a driver is not only unlikely, the actual suggestion has no grasp with reality.

We do not suppose any person would expect to walk into a supermarket and use a bartering system with the store to negotiate a lower price for a tin of peas, yet we appear to have the economists of this world expecting this with cab drivers.

A driver may choose to purchase an expensive taxi that will take wheelchairs and up-to eight passengers, economics would suggest he should be able to charge a premium for his service over a rival who has perhaps purchased a vehicle which merely has the standard four seats and is considerably older. This type of activity is currently forbidden by law – even though the costs of operating both vehicles are entirely different. Although this distortion goes against economic theory it is rather more simply put in place to protect the public.

Taxi fares are set by the majority of local authorities for the protection of the public. Indeed, numerous local authorities have made it a condition of license that all taxis are equipped with ‘calendar controlled’ taximeters in order to further protect the public from unscrupulous drivers charging the incorrect tariff. However, the fact local authorities need to set taxi fares is market distortion, albeit a distortion to ensure the public is protected.

The natural impact upon the 'open competition' aspect, as mentioned by Mr. Percival, is the requirement of this type of 'market intervention', this in itself proves the market is very far from being subject to 'open competition' and the reason it isn't is to protect the public.

Further market interventions, such as local policy ensuring either all or a percentage of vehicles are 'wheelchair accessible' additionally distort the free market principle. The market is free – *except you must drive this type of vehicle and charge this price?*

Experience with taxi deregulation in the Netherlands led Ambrosius Baanders, ECORYS and Marcel Canoy, ECORYS and TILEC, University of Tilburg¹² to state;

"It is clear that the policy objectives were not met in the ten years of deregulation, particularly in the street taxi market in the main cities. Contrary to the expectations of the policy makers, instead of going down, the fares went up much faster than the inflation rate, in the main cities trips and passenger kilometres went down and undisciplined driver behaviour became a very serious problem."

As theories go, we would naturally expect regulated areas to have higher fares than deregulated areas – as a business cost the 'plate premium' would be extremely likely to be factored into fares. License premiums are mentioned at 9.16, 9.32, 9.34, 17.3, 17.18 and 17.20. However, the existence of a 'premium' has no impact upon the fares charged by taxis –evidence gathered (and supplied to the LC) by the NPHA suggests fares in deregulated areas are higher than regulated areas.¹³

The belief that a deregulated area has a better taxi service than a regulated area is one with little empirical evidence. As Kopp mentions in his paper;

"de-regulation leading to more entry reduces the waiting time while at the same time increases average producer costs by increasing the idle capacity."

The LC mention at 17.18;

We recognize that any change in the law in this regard would have a significant impact on those members of the taxi trade who may have invested considerable sums in their taxi licence and relied on it, for example, as a retirement fund.

The LC alludes to no compensation being paid for any loss of investment as recommended by the 'OECD' also known as "the rich men's club"¹⁴, turkeys don't in general vote for

Christmas. Whilst our association has little time for those who purchase taxi licenses with a view to them being an investment as opposed to a working business. We similarly acknowledge there are numerous taxi owners across the country paying for the purchase of their taxi businesses. If the market were to be deregulated there is little doubt those currently paying would suffer extreme hardship.

The Irish Times reported in November 2010¹⁵ *“up to 34 drivers had taken their lives in the previous two years”*.

The type of hardship created in Ireland was created by a system not considering the socio economic realities of taxi deregulation – this is why when the LC (and others) come out with such casual phrases as *‘if you can’t stand the heat get out of the kitchen’* it is treated with such derision. The reality is that many will eventually leave the kitchen – but they will battle on to the bitter end before they depart– at the cost of marriages, extreme hours and sadly even lives in order to try to make their businesses a success.

To our knowledge there has been no formal study of the effects of taxi deregulation in the UK – from either the point of view of new entrants or incumbents in the trade. Studies in the UK tend to be about the theories of deregulation in respect of almost doctrinal benefits to the taxi user. A study from the US¹⁶ cited numerous socio economic realities of driver hardship, these included;

- Drivers working excessive hours for poor remuneration
- No social or domestic life
- Fatigue
- Job stress

It is of course instructive to note that the LC do not appear to have included evidence gathered from Ireland in relation to the findings of the ‘taxi hardship panel¹⁷’, an independent panel that was set up when the difficulties of deregulation finally hit home to the Irish government. Naturally, the LC resolutely working to a deregulatory objective, hasn’t seemingly considered this type of evidence, so it was presumably ignored. It was far

easier to quote Sean Barrett¹⁸, who is to Irish taxis, what Dr Hannibal Lector was to the catering industry.

Speaking with colleagues in deregulated areas, deregulation forces drivers to rely upon private-hire radio circuits – the effects of this are to the disadvantage of both the driver – who may wish to work purely the rank and street hail market but is forced by economic circumstance to source more work via a radio circuit – and the passenger – in many areas private hire radio circuits offer a lower fare than ordinary hackney carriage fares – experience shows the private hire rates increase to match the taxi rate of fare – thus depriving the passenger of choices in respect of prices.

Carlisle is one example – prior to deregulation in 1994 there were upwards of 6 private hire companies within the city – all charging different rates and catering for different clientele. Within 2 to 3 years of deregulation many private hire drivers had changed their vehicles for taxis - the residual effect was that all vehicles charged the same fare regardless of radio circuit- thus depriving the customer of market choice.

For the reasons cited above we believe there is sound rationale why local authorities should have at least the ability to control taxi numbers within their area. Other reasons will be similarly cited within this paper.

A happy conspiracy?

For whatever reason, the Office of Fair Trading (OFT) launched an enquiry into the UK's taxi regulations on 21st August 2002¹⁹.

The subsequent enquiry went down in the annals of taxi history; the OFT enquiry was rebuffed by the House of Commons Transport Select Committee²⁰; whose findings were similarly rebuffed by the OFT²¹; whose rebuff was rebuffed by the select committee²².

The government of the day, subsequently accepted the OFT report under the guidance of the Department for Transport (DfT). However, the move the government undertook was to ensure it was considered best practice not to limit taxi numbers – ultimately they decided to leave the final decision to local authorities who were considered best place to decide.

The report the OFT produced in 2004 mentioned international comparisons²³, similar to how the Law Commission have cited international comparisons in their consultation.

Like the Law Commission, the OFT didn't cite the socio economic realities of taxi deregulation, in fairness to the OFT, the accumulated evidence, particularly that from Ireland, wasn't as apparent in 2003 as it is now.

Since the OFT enquiry, with the government decision in respect of best practice guidance and taxi regulation, the number of local authorities that have deregulated taxi numbers has increased.

There is however little empirical evidence that the deregulated markets are more effective than regulated ones, although numerous local authorities have been obliged to re-regulate taxi numbers following advice from the police.

The above being stated, there are two pieces of highly significant evidence that have been ignored.

Firstly, recent studies by the National Private Hire Association, a respected trade body, appear to suggest areas with an abundance of taxis, deregulated areas, have higher cab

fares than regulated ones. This evidence was unsurprisingly sent to the law commission, but not published or seemingly even considered.

Secondly, the OFT study of 2003 contained one particular annex, annex c²⁴, the evidence contained in this annex was not wanted by the OFT, it proved customers in regulated areas were better served by taxis than those on deregulated areas.

This evidence was similarly ignored by the Law Commission, however the LC did choose to quote the bits of the OFT report that they did actually like (because presumably it serves their purpose).

When you're working to a political theory, evidence contrary to your goals cannot be considered.

The other attributed costs, proven in Ireland, costs to the healthcare system due to excessive hours with associated illnesses such as strokes, hypertension, high cholesterol and heart problems, stress, anxiety and panic attacks, depression, asthma, colitis, back problems, and fatigue were similarly not deemed worthy of consideration.

Bankruptcies with the 'ripple-on' effects of debt have equally been neglected to be worthy of study, although there is anecdotal evidence to suggest that taxi finance companies have refused finance in certain deregulated areas which have been regarded as 'black-spots', Milton Keynes being one such example. The mere fact that no taxi finance companies appear to have been approached for this type of evidence is instructive.

The conspiracy at this point does appear to be a little weak, however, a Freedom Of Information (FOI) request has uncovered evidence of a meeting between the OFT and DfT on the 16th November 2009²⁵. It is not disclosed which officials of either the OFT or DfT were present at this meeting.

The meeting notes raise some highly controversial issues. First thoughts wonder why the OFT would wish to see the DfT exert pressure on local authorities. This was and remains, contrary to government policy.

It is obvious from the notes the OFT were continuing their political assault on the regulation of taxis, the notes contain highly controversial topics alongside the type of language being used that the OFT wanted pressure exerted on local authorities to lower taxi fares – in the OFT’s view they were too high – despite no evidence suggesting this was true.

Naturally, how taxi fares are set has never been seriously considered – so for the OFT to presume they are ‘too high’ is merely guesswork – a devised formula could alternatively suggest fares are too low.

Whether or not the DFT were complicit is something that will never be known, the fact the meeting took place and only came to light as a result of an FOI is in our opinion highly instructive.

We’re all conspiracy theorists now

A number of the law commission proposals look suspiciously like those proposed by the shadowy organisation now called Local Government Regulation (LGR). Amongst their solutions to the various problems surrounding the taxi trade they advised the transport select committee²⁶ to; (at 5.1)

“the Government considers adopting national standards for certain key conditions which do not require local consideration.”

At 5.2;

“Alongside statutory national standards, joint enforcement agreements would be welcomed, which allow licensing enforcement officers to enforce vehicles which have been licensed in other areas.”

At 5.3;

“Many licensing authorities would also welcome fixed penalty notice (FPN) powers, which would give licensing enforcement officers an instant control measure to ensure drivers were adhering to locally set conditions.”

They then went on to certain other issues, these started with 6.1;

“Restricting the number of hackney carriages in an area (often referred to as quantity restrictions). At present approximately 100 local councils continue to restrict numbers. This is currently a local political decision.”

Points 6.2, 6.3, & 6.4 covered driver training, CRB checks and airports.

All of the above points appear to have the approval of the Law Commission and are included within the ‘consultation’ documents, a rather startling coincidence.

LGR met with the DFT on 12 January 2010, 17 February 2010, 9 March 2010, 22 June 2010, 23 August 2010, 22 November 2010, 7 December 2010, and 21 February 2011. Eight meetings in thirteen months with ‘taxis and private hire’ cited as the topic of the meetings, no meeting notes were taken.

To add a little more to all these ‘coincidences’. Unite the Union, a little upset by the ongoing situation (and by ‘ongoing’ read the last 30 years) with Sefton licensed PH vehicles sitting in Liverpool awaiting pre bookings. Unite actually made no secret of their desire end this particular cross border debacle. They duly met with the Transport Secretary, Norman Baker, on 4th October 2010, again, no meeting notes were taken – although it is safe to presume Unite must have advised the transport secretary that they had organised a petition and intended to present it to the House of Commons Transport Select Committee.

Sadly, Unite the Unions own ‘in-house’ newspaper²⁷ isn’t too specific on dates, they do report on a presentation to Louise Ellman (chair of the Transport Select Committee) of a 3,400 signature petition shortly after their meeting with the Transport Secretary, this was

followed by letters of support from various MP's at the beginning of November 2010 making reference and giving support to the Unite petition.

It is reasonably fair to presume the Unite letters to MP's were sent in October, at least two weeks before the replies of MP's.

Meanwhile, DFT officials secured a meeting with the Law Commission, this took place on 4th November 2010²⁸, the meeting outlined many of the problems which would eventually be covered by the transport select committee, meeting notes suggest this was a preliminary meeting regarding a 'possible project', the DFT would contact the Law Commission "within the next few weeks" advising if they would fund the 'application for our project'. Released FOI's appear to suggest the 'few weeks' turned into a few months, as the next meeting took place on 17th May 2011²⁹. Due to some rule of protocol the only civil servant mentioned in dispatches from the DFT was a certain Anthony Ferguson – who explained the government position as wanting one of a 'deregulatory' approach with a 'localism' agenda.

At no stage in any correspondence released is there a single reference to the 'red tape challenge' which Mr Ferguson allegedly assured Unite Union was the reason behind the Law Commission being invited into the arena. Indeed, the references to buses and taxis on the 'red tape challenge' website seems to have attracted a massive 297 responses³⁰, a proportion of which concerned purely buses, a further proportion of which were multiple responses by the same people. The expression 'cranks' could be used and in many respects it would be entirely inaccurate.

All of the above have been brushed off as 'coincidences', because, presumably, these coincidences do happen.

Was it a sheer coincidence within one month of Unite the Union meeting with the Transport Secretary that his department had preliminary discussions with the Law Commission? Was also a coincidence that nobody from the DFT, at least in respect of

information received via FOI's, apparently thought it would be wise to contact the transport select committee advising of government intentions?

Norman Baker told the Select Committee on 15th March 2011;

"I have asked the Law Commission in fact whether they would consider this as one of their project areas to look at, which is, hopefully, an interesting and successful way of dealing with this matter, because it is quite complicated."

What the transport secretary didn't say, at least in respect of the released FOI's, is that all they appear to have done is make a few preliminary enquiries, that isn't actually the same as *"I have asked the Law Commission in fact whether they would consider this as one of their project areas to look at"*. So either, the DFT hasn't disclosed all the FOI's that were requested, or the Transport Secretary wasn't being entirely honest with the select committee.

As stated above, the A number of interesting points appear to be raised in meeting notes between the Law Commission and DFT on 17th May 2011. There was for example no reference to the transport select committee, which is quite bizarre considering the job they were doing. It perhaps suggests whatever the select committee wanted it would not affect law commission involvement, which you might have thought would have been mentioned in the meeting of 4th November.

The Law Commission was seemingly very keen to ensure *'payment should not be before July when the project officially kicks off'*. The Transport secretary's words would appear to suggest there had been agreement; however, there was nothing in any FOI.

All of this is to do with 'red tape' – which is seemingly apparent as much in Whitehall – as much as it is within local government.

Naturally, we could be mistaken, but I would have thought during the Ministers presentation to the NTA conference during late October 2010 in Sunderland, there would have been mention of his department contacting the Law Commission. The minister sent a DVD presentation to save on money – a concern they didn't appear to consider in respect of a (Law Commission) enquiry running practically hand in hand with the select committee enquiry. So presumably, he wasn't aware – which again raises questions as to what's going on in the DFT – it would seem we have a case of 'the tail wagging the dog'.

The rather bizarre impact assessment

According to the imaginatively titled HM Government document “*How to do an Impact Assessment*” an Impact Assessment (IA) is both:

- i. A continuous process to help think through the reasons for government intervention, to weigh up various options for achieving an objective and to understand the consequences of a proposed intervention; and*
- ii. A tool to be used to help develop policy by assessing and presenting the likely costs and benefits and the associated risks of a proposal that might have an impact on the public, private or civil society organisation, the environment and wider society over the long term.*

We have already made our concerns known in respect of the Law Commission having little idea what the turnover of the taxi and private hire industries are; the guesses appear to vary from £1.4 billion to £8.8 billion, not exactly reassuring and potentially out by a whopping 500%.

The concerns raised above appear to continue in various other parts of the IA.

Reduction in number of taxi driver assaults

It is important to recognise that drivers too are at risk. In the past 20 years, 63 taxi or private hire drivers have been murdered. Whilst this figure does not distinguish between those who were killed whilst working and those whose deaths were not linked to the trade, it is nevertheless of great concern.

Drivers are frequently victims of assaults and robberies. If the Secretary of State and Welsh Ministers choose to introduce more stringent safety requirements our proposals could allow for increased driver safety measures. Furthermore, national training requirements should, we suggest, include disability training, and could also better equip drivers to deal with challenging environments and avoid conflict.

In the course of the main LC document, some 253 pages in length, the word ‘assault’ is mentioned twice; on each occasion in paragraph 8.3 and in respect of drivers assaulting passengers. The word ‘safety’ is however mentioned on many occasions, if I were a gambling man, I’d put a fairly hefty bet on the word ‘safety’ being the most used word in the

entire document. It is instructive to note the document titled “Taxi drivers’ safety and health: A European review of good practice guidelines”³¹ has not been mentioned by the LC despite their European tour.

The word doesn’t extend towards much in the way of driver safety – which sadly appears to suggest the LC have little interest in this issue, despite the feigned interest shown in the IA. It is therefore difficult to understand how the LC can state: *“If the Secretary of State and Welsh Ministers choose to introduce more stringent safety requirements our proposals could allow for increased driver safety measures.”* when they don’t actually suggest anything for statute.

The following is stated in the IA in respect of Safety Standards;

Improved safety standards

Safety is a key justification for the licensing system as a whole yet there are no national minimum standards in respect of issues such as driver and vehicle safety standards. Disability groups have highlighted significant problems in ensuring accessibility and the safety of disabled passengers. Disability groups have told us that most disabled persons have to travel without proper restraints on a daily basis. This is not only unsafe, but uncomfortable and at times undignified. These problems do not only affect wheelchair users: deaf passengers may have difficulty communicating with the driver where the vehicle is fitted with a partition, and blind passengers have concerns about being unable to read taximeters.

Furthermore, standardised vehicle safety requirements and a standard frequency of checks should give rise to a general improvement in consistent safety standards.

Currently, a hire vehicle which operates illegally (for example, a PHV which plies for hire) risks invalidating its insurance. The clearer definition of plying for hire we propose, along with greater clarity on which operations and services require licenses, could significantly reduce the incidence of passengers travelling in effectively uninsured vehicles. In these instances their only means of recourse is to the Motor Insurers Bureau, whose compensation is subject to limits.

Minimum national standards ensure the reputation of the taxi trade as all providing to at least a common standard. This ensures increased user confidence and provides the basis for increased user demand. The average value for the prevention of a road casualty in the case of car and taxi occupants has been estimated at £39,449, in 2011 prices.

This means that if, as a consequence of the Secretary of State's and Welsh Ministers' national safety standards, one accident was avoided (a conservative estimate), there would be an annual saving of £39,449, two accidents = £78,900 (best estimate) and three accidents avoided per year would be £118,347 (high estimate).

Annual savings = £78,900 (best estimate)

NPV over 10 years = £656,180

We discuss national safety standards within this paper, we point out the Law Commission appear to have forgotten to inform us of the individual local authorities where the necessary checks and balances towards drivers are not carried out. As we mention in this paper, we are not aware of any, although we eagerly await this list of failing authorities. This additionally applies to vehicle standards.

The LC allude to cases where passengers have hired illegal vehicles and found after injury they were not insured, we are not aware of any case involving any licensed vehicle where insurance companies have refused to indemnify the passenger. We ask that evidence is made available of these instances.

The LC state at point 5 in their impact assessment;

Reduction in the number of assaults of taxi users

Our proposals should have the result of reducing the number of unlicensed vehicles and drivers, as well as the number of touts. Better enforcement will act as a deterrent, encouraging providers to work within the regulated sector, and will allow greater targeting of rogue traders. Removing confusion around which vehicles should be licensed will also ensure more vehicles which ought to be licensed will be, for example limousines. Thus fewer passengers should be carried by wholly unlicensed drivers, who are likely to be much more dangerous to passengers than safety-checked licensed drivers. Although the move to allow enhanced CRB checks will have gone a significant way towards improving passenger safety where drivers are licensed, we believe that our proposals will continue this trend.

Offences against passengers most commonly include sexual offences, assault and theft. Taking sexual offences as an example, the estimated total cost of £38,359 (in 2011 prices) provides a measure of the

economy-wide benefit of preventing sexual crimes. If 111 cases have been reported in London alone, which accounts for about 30 percent of all taxi services, nation-wide the figure must be closer to 400 reported cases.

It is clear from the first sentence that the LC do not have any idea if their proposals will actually lead to a reduction in unlicensed vehicles and drivers – they suggest better enforcement, yet they mention in numerous parts of their document that enforcement is costly and often not carried out due to lack of funds. They similarly fail to suggest how funding for enforcement will be attained.

It doesn't appear the LC has done any degree of suitable research into this serious subject, they are rather more simply citing figures (obtained by someone else) from London and using these as a gauge for the rest of the country. Bearing in mind there are only about 40 constabularies in England & Wales, we wonder how arduous a freedom of information request could possibly have been. Strangely at 8.3 they state;

8.3 Transport for London reported 111 cab-related sexual offences in 2010 alone, and Greater Manchester Police recorded 98 offences of rape or sexual assault linked to taxis and private hire vehicles in the same period.

The infamous case of John Worboys illustrates the extent to which taxi services can be abused by sexual predators. The black cab driver was convicted of 12 sexual assaults in 2009 but police believed this was only a fraction of the actual offences he had committed. There are also frequent allegations of theft, assault and other offences.

The LC stated; “nation-wide the figure must be closer to 400 reported cases” are based upon London which has some 73000 licensed vehicles, yet the Impact Assessment doesn't seem to state (although the document does at 8.3) Greater Manchester had a reported 98³² cases; with some 12000 licensed vehicles. This compares to Merseyside where 8800 vehicles are licensed across the area a cited figure of 22 offences³³.

If they had used the Greater Manchester figures instead of London, they would have, using the same methodology, suggested nearer 1900 cab-related sexual offences, which is obviously a startling number and totally unrealistic. Again, whilst the lack of research

carried out is quite galling, the simplicity of obtaining it in our view gives a major flaw in the impact assessment. We address this at page 102.

The following is stated at point 6 in the LC IA;

6. Increased employment in areas that remove entry controls

The removal of entry controls has the further benefit of encouraging market growth as latent demand translates into industry activity as the number of taxi users increases in direct response to improved provision.

The increased supply of taxi services in areas that remove entry controls occurs as a result of increased vehicles being made available to ply for hire, pick-up at ranks or indeed be booked through various means. Increased industry employment occurs as those previously prevented from entering the market are now free to enter. The desire to enter is informed by the potential for work as signalled through the license premium which was previously secured in areas with entry restrictions. Increased taxi availability potentially triggers a customer response from those who had previously suppressed demand and made use of less satisfactory forms of transportation. Taxi drivers potentially benefit from not only access to a previously restricted market and a share of the monopoly rent which accrued to a small group but also from the increase user demand as taxis become visibly more available and provide an obvious means of alternative transportation.

The lack of research and dogmatic approach by the LC is again highlighted here. The experience of deregulation in some areas has been one where private hire drivers simply switch codes to hackney carriages; thus there is little in terms of ‘increased employment’; indeed certain areas, Carlisle being one obvious example the number of licensed vehicles actually dropped between 1994 and 2012.

The LC state; *“Increased industry employment occurs as those previously prevented from entering the market are now free to enter.”* The true facts are those entering the trade are already in it.

The Carlisle experience isn’t a complete picture; as mentioned elsewhere in this paper, the number of licensed vehicles in both Liverpool and Cardiff grew dramatically after deregulation.

The point being, it is unfair without doing research to make such a broad assessment of 'employment' being created.

The assumption that increased availability 'potentially' triggers a customer release is a rather peculiar thought, by the same equation if 'Greggs *the home of fresh baking*' supplied an extra tray of 'sausage, cheese & bean melts' the LC appear to believe the extra supply of melts will 'potentially' create a demand.

The LC use words that are provocative to those of a pro deregulatory disposition; 'Monopoly' is one obvious example; however the context in which it is used in point 6 is patently attempting to create a misconception; there is no grain of evidence that latent demand will turn into actual demand. The assumption is merely an assumption.

The following is stated at point 7 of the LC IA;

7. Improved social inclusion

The extent to which the removal of entry controls translates into wider benefits depends on councils' approach.

Increased numbers generally will improve access to people on low income – however the extent to which the benefit extends to those with particular needs, for example with limited mobility, depends on the type of increased supply that becomes available.

If, for example, zoned licensing were to be introduced, wheelchair accessible vehicles and vehicles restricted to working in particular areas would be made increasingly available. Furthermore, the opening up of the private hire market could encourage providers to diversify and expand. Placing the private hire industry on a national footing could promote access to people in more remote areas, as the most practicable way to meet their requirements may be through sub-contracting or using a driver and vehicle licensed in another area.

The LC rationale behind zoning has little to do with any reality we are aware of – it would to all intents and purposes be a rather silly idea – however it is reasonably clear, although not suggested by the LC that regulations would be required in order to create a demand for licenses.

If for example a local authority was aware of a demand in a rural area (and heaven knows how it's going to do that without some type of survey) it could zone its district, however, if an area where to be completely derestricted it is obvious the potential licensee would wish to work the perceived busier area, in all probability this would not be the area desired by the local authority.

In order for this to happen a local authority would need the right to restrict licenses.

The LC, as part of a grand finale, present us with a number of assumptions, these are as follows;

RISKS, ASSUMPTIONS AND SENSITIVITIES

Assumptions:

All the assumptions that underpin specific cost/benefit estimates are indicated alongside the relevant discussion. However there are broader assumptions that inform our approach to the impact assessment and these are as follows:

- 1. Latent demand responds to improved provision in taxi services and this facilitates the further increase in taxi demand;***
- 2. The groups identified in the consultation paper as potentially excludable from the licensing regimes would all be excluded (e.g. driver guides, childminders, volunteer drivers);***
- 3. Current arrangements regarding government funding for licensee training remain in place.***

Risks:

- 1. Entry controls are not fully removed and the full benefits are not delivered particularly as it relates to reduced consumer detriment through reduced waiting time - medium risk;***
- 2. Councils do not pursue a managed approach to licensing. This carries the reputational risk to the taxi industry if experienced drivers leave and less experienced drivers provide an inferior service - medium risk.***
- 3. The Secretary of State and Welsh Ministers may choose to exclude fewer groups than indicated in assumption 2. This is a low risk.***

- 4. *There is a high risk that given the current economic climate funding of licensee training is no longer available – in which case licensee will be required to self-fund.***

Sensitivities

All cost/benefit estimates that rely on a range have been indicated throughout the impact assessment.

The LC assume their theory of latent demand actually works; of course they could find evidence of this if they tried; numerous local authorities have deregulated since 2003; a growing number have reregulated due to market failure.

It is naturally alarming to learn there is a high risk of funding being cut in respect of training – the expression ‘self-fund’ is not mentioned by the LC at any stage within their document, it is therefore instructive consultees would need to study chapter and verse of each LC document provided.

The health and wellbeing portion of the Impact assessment is somewhat confusing.

Health and wellbeing

This impact assessment has been undertaken using the screening questions identified in the Department for Health document “Health impact assessment of government policy”.

Will the proposal have a direct impact on health, mental health and wellbeing?

Our proposals will improve mobility for disabled and elderly people, as well as promoting social inclusion, independence and participation. We propose driver training which would specifically cover working with disabled people and persons with reduced mobility. Many disabled passengers complain of a significant degree of danger, discomfort and loss of dignity when travelling by taxi or private hire vehicle. Our proposals on driver training would increase awareness of how disabled passengers prefer to travel, the proper restraint of wheelchairs and how to use specialist equipment.

Standardised conditions of licence for private hire drivers would lead to a consistent approach to medical requirements across England and Wales. These standards would be based on consultation not

only with the industry but also with relevant specialists, ensuring an appropriate and proportionate response was taken to medical conditions, and potentially allowing a greater number of people with health problems to undertake this kind of work.

Will the policy have an impact on social, economic and environmental living conditions that would indirectly affect health?

Our proposals will improve employment prospects in those areas which currently restrict the number of taxi licences available. Whilst there is the possibility that they will increase emissions, it is hoped that market forces will limit the potential for expansion. In doing so it will limit wastage and people leaving the market and becoming unemployed.

Will the proposal affect an individual's ability to improve their own health and wellbeing?

Our proposals will allow people, in particular disabled and elderly passengers, to travel more freely. This could allow them to improve their own health and wellbeing, for example by allowing them to shop in a wider range of locations or to access previously unreachable services.

Will there be any change in demand for or access to health and social care services?

The opening-up of the private hire market and removal of restrictions on taxi numbers in those areas which currently restrict taxi licences will promote greater access to health and social care services. There will be no direct change in demand for these services.

Will the proposal have an impact on global health?

No.

The LC failure to consider the socio economic impact of taxi deregulation leaves us with health and wellbeing as an obvious concern. Our paper mentions the report of the 'taxi hardship panel' set up in post deregulation Ireland where various illnesses were cited as the side effects of the deregulatory policy. We also cite a document from the US which established similar findings. Again we point out that we find the omission of such evidence as highly alarming.

The failure to recognise deregulation leads to excessive hours and the same failure to recognise the dangerous impact this may have upon passenger safety is of equal concern.

The LC state a belief that more vehicles will be available to cater for the disabled, yet there is little proof of this; indeed local authorities will still be left to determine their vehicle policies. We can surmise that no additional accessible vehicles will come from the private hire industry – despite LC satisfaction a mere 2% of the nations private hire fleet are accessible.

The LC states the following above;

Our proposals will improve employment prospects in those areas which currently restrict the number of taxi licences available. Whilst there is the possibility that they will increase emissions, it is hoped that market forces will limit the potential for expansion. In doing so it will limit wastage and people leaving the market and becoming unemployed.

The above paragraph appears to contradict itself numerous times, it is difficult to fathom, we have been told in many areas that a free market is the best way of delivering goods and services – yet it is now stated these same market forces will limit expansion – indeed we have been told in the documents that amongst the reasons for permitting cross border is because some businesses will want to expand. LC attempt to hammer home improved employment prospects – yet as we state, there is no evidence of this occurring.

The LC similarly appear to fail to cite any impact upon the wedding car or funeral car industries upon them being licensed, they have additionally ignored the possible implications of volunteer drivers being licensed (as they should be if we are to deal with the matter fairly).

Problems with the L.C. Documents

Fares

At 1.16 the L.C. state;

*Thirdly, on the private hire side, we make rather more far-reaching proposals. We provisionally propose that the Secretary of State and Welsh Ministers should set national standards for private hire vehicles and drivers, and that licensing authorities should not have the power to impose higher standards. **This reflects our view that the pre-booked market works reasonably well as a competitive market, and so there is no need for the state to step in to guarantee quality or control fares.** The granting of licences and enforcement would continue to be a function of the licensing authority. The national standards for private hire vehicles should be set at the same level as the minimum standards for taxis. In both cases, the power to set standards would allow for different standards to be set for different descriptions of vehicles.*

Sadly the highlighted statement does appear to be somewhat at odds with a campaign by the Office of Fair Trading in November 2008 regarding price fixing by private hire companies³⁴.

However the above does echo the warnings of Adam Smith in his book the Wealth of Nations in 1776, although we would contend he was perhaps not making particular reference to minicab proprietors;

"People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices."³⁵

Our association disagrees with the rationale outlined from 2.30 to 2.47 that taxi customers are at a disadvantage in respect of the hailing of taxis and the fares charged – fares are set by local authorities in order to protect the customer and not put them at a disadvantage when they hail cabs.

Paragraphs 4.88 to 4.93 mention the relationship between private hire operator and driver.

The L.C. appear to allude to any potential for private hire fares to be set locally invariably leading to an increased cost- at the same time they allude to local authority conditions resulting in increased private hire fares.

By its very nature 'private-hire' covers a multitude of differing business models; these include minicabs, minibus type operations, executive hire, airport specialists etc. However, we do feel the emphasis and rationale of the L.C. documents are more specifically aimed at the minicab market.

We are surprised that whilst taxi fares were mentioned on page 19 of the document, there is little explanation as to how local authorities arrive at the actual fares. We are equally surprised there has been nothing offered in the way of explanation as to how minicab fares are determined; the obvious rationale is that minicab fares are determined by market forces.

We would contend the L.C. rationale (or lack of rationale) in respect of minicab fares is false; invariably minicab fares are perceived to be lower than taxi fares.³⁶

At 1.26 the L.C state;

The current legal framework has also been said to fail disabled passengers. In February 2009 a 14-year-old Birmingham girl died during a taxi ride home because her wheelchair was not properly secured.

Disability groups have told us that most disabled persons have to travel without proper restraints on a daily basis. This is not only unsafe, but uncomfortable and at times undignified. These problems do not only affect wheelchair users. Deaf passengers may have difficulty communicating with the driver where the vehicle is fitted with a partition, and blind passengers have concerns about being unable to read taximeters. Our provisional proposals include questions on how to promote safety for disabled passengers as well as compulsory disability discrimination training for taxi and private hire drivers.

Our association dispute the above point. The existing legal framework is perfectly adequate in respect of all passengers; numerous drivers have been successfully prosecuted for failing to secure wheelchairs over the years, these have invariably led to licenses being suspended or revoked.

On 11 October 2010 at Walsall Magistrates Court;

A taxi vehicle driver was convicted of causing, or likely to cause, danger by failing to secure a wheelchair in a hackney carriage. He was fined £275 and had his DVLA licence endorsed with 3 points. He was ordered to pay costs of £600 and a victim surcharge of £15.³⁷

In addition the following story appeared in the Plymouth Herald during November 2011;

A TAXI driver admitted failing to secure a passenger's wheelchair.

Mark Smith, aged 51, did not take all reasonable precautions to ensure the safety of the passenger on February 15. City magistrates gave Smith, of Clittaford Road, Southway, a six-month conditional discharge and ordered him to pay £200 costs to Plymouth City Council.³⁸

The above articles were easily found on the internet, we are surprised they were not also found by the LC. We note the L.C. state claim to have been contacted by disability groups, yet we are surprised to see nothing in the way of citations or annex attachments.

We dispute many of the points raised in 1.27

Limousines are a prime example of a licensing grey area. Although users will have little trouble finding a willing provider of such services it may be much more difficult to determine whether they have been properly vetted and licensed. Although the Department for Transport recommends that small limousine services should be covered by private hire licensing, in practice many are not.

This is because local licensing conditions may be impossible for the vehicles to satisfy (many are imported and have left hand drives, for instance, or fall foul of prohibitions on tinted windows). Such limousines continue operating but lie outside any form of regulation unless they seek to be licensed as a small public service vehicle with the Traffic Commissioners. The Traffic Commissioners' checks however

currently do not include, for example, Criminal Record Bureau checks, which are a key component in ensuring passenger safety.

In recent years, there have been a number of high profile limousine accidents reported in the national press; most prominently, the case of a group of teenage girls travelling in a defective limousine which caught fire. The vehicle lacked a certificate of initial fitness, a test certificate and appropriate insurance cover.

Our association disagrees with the L.C. contention that the licensing of limousines is a 'grey area'. We would additionally contend 1.27 appears to contradict itself at 3.80 where the procedure for licensing limousines under VOSA is set out. We believe the law is perfectly clear on the issue of limousine licensing; we are disappointed the L.C. has not provided any evidence of limousine applications being refused by local authorities.

The provisional proposals and questions the LC have raised appear to be in a tongue which is beyond the ken of many a man. Although there are too many examples to cite individually, the following are a mere sample;

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. (Page 164)

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets". (Page 175)

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of "arrangements made in a public place" instead of "plying for hire"? (Page 182)

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. (Page 183)

We are at a complete loss how the LC expects working cab drivers and associations to fully understand such questions. They are difficult enough to understand for those of us who are *au fait* with taxi and private hire legislation and the many vagaries, yet for some reason the LC appear to expect the general population to understand it – the LC did produce a simplified version of their consultation at a later date.

Ireland

The issues surrounding taxi deregulation in Ireland are covered in a breathtakingly poor and one sided manner by the law commission; a mere 7 paragraphs are dedicated to what surmounts to be a total failure of taxi regulation, although the LC spin on taxi deregulation in Ireland appears to be one of outstanding benefit to the consumer (as mentioned at 9.50 in the LC document where they state;).

The main consumer benefit of de-restriction was, inevitably, reduced waiting times. The number of consumers waiting less than five minutes for a taxi increased from 23% in 1997 to 50.3% in 2008. Demand for hail and rank services rose, but the preference has now returned to pre-booked vehicles. It is, however, notable that journeys by passengers in wheelchairs have decreased, although it is not clear that this is directly linked to de-restriction.

Sadly, there is no citation attached to the statement at 9.50, we therefore have little chance of analyzing the LC's presumptions.

We mention Ireland in various sections of this paper, as the issues of deregulation have seemingly been neglected to have been mentioned by the LC.

The LC state at 9.52;

Although the industry has been very vocal about the effect of de-restriction on earnings, studies show that overall earnings have not decreased significantly.

The lack of evidence to back up this presumption is again instructive.

The LC state also in 9.52

The Irish Government is currently undertaking a review of taxi regulation.

We are then offered a link to an article from the “Irish Examiner” newspaper. Again the LC didn’t appear to believe it necessary to point out to readers that the article gave reasons why the Irish Government were undertaking a review. The LC chose to describe the Irish Government as ‘undertaking a review of taxi regulation’.

The reasons behind the review appear to be failings within the deregulated taxi system, the Irish Examiner stated;

Mr Kelly said gardaí must take a leading role in taxi industry enforcement and not leave it to the nine enforcement officers in the regulator’s office. He also said the system of monitoring and regulation of licences is not stringent enough, and that criminals with serious convictions are being allowed to operate legitimately.

The LC State;

The Irish National Transport Authority has also imposed a temporary suspension on the issuance of non-wheelchair accessible taxi and pre-booked only vehicle licences in order to even-out numbers.

The above statement leads to the following citation numbered ‘74’;

It does not appear that this temporary suspension has been formally announced on the National Transport Authority’s website or reported in the media – we were informed about it during a telephone call with the Irish National Transport Authority on 27 September 2011.

Whilst we do not doubt the LC actually spoke with the Irish National Transport Authority on 27 September 2011, we would advise that Ireland has not temporarily suspended the issue of taxi licenses. Indeed up until May 2012 they were offering a subsidy to people prepared to purchase Wheelchair Accessible Vehicles. If such evidence was offered by the taxi trade – we have little doubt the LC would have ignored it as anecdotal.

Problems with the Law

Chapter 8 of the document is dedicated to numerous issues pertaining to problems with the law, these cover Public safety, No national minimum standards, Enforcement, Novelty vehicles etc we will point out flaws in the documents and naturally offer our view.

Public Safety

The issues surrounding public safety are highly important, although in many respects this is an easy 'off the cuff' statement.

We raise concern at the mention of John Worboys³⁹, this citation, certainly in respect of him being a licensed taxi driver without similar examples from the private hire industry (and there are many) is in our opinion partial. For example, the headline '*No Woman is safe in a minicab*⁴⁰' could have been cited in a case where recorder Michael Sayers, QC, said those hiring a private 'taxi' simply had no way of knowing the driver's background.

Our association will be the first to acknowledge that a predator, be they licensed private hire or licensed taxi, are one predator too many, but we see the citation of Worboys alone as partial.

We would also wish to state the source cited by the L.C. (the guardian newspaper) wrote a piece at a later date than the L.C. citation, this piece implicated police errors⁴¹ these were not acknowledged by the L.C. and in our view shed an unfair light on the licensing system. This source would have been easily available to the L.C. and we believe the lack of inclusion is revealing. Sadly, whatever licensing system would have been in place, it is highly likely Worboys would still have been granted a license – a fact which appears to have been missed by the Law Commission.

The L.C. similarly cite figures quoted from both the Metropolitan and Greater Manchester Police Services, however, neither service differentiates between private hire and hackney carriage; thus giving no overall indication as to the particular trade which has the largest problem⁴². Again we acknowledge rape is a rape, it is a matter of very little consequence to the victim which particular license the rapist has. Whereas the victim will be concerned as

to how the person was deemed fit and proper to obtain a license, the taxi trade are invariably interested into how such an event was permitted to happen, given all the checks and balances which are followed throughout the country.

It would seem – short of breaking the space time continuum and inventing a time machine – this area of licensing cannot be safe. – We are therefore surprised this sorry fact has not been acknowledged by the L.C.

No national minimum standards

Our association is particularly disappointed by this section as it shows the research carried out by the L.C. has been minimal. The assertions made by the L.C. are not only ill advised; in many respects they are patently fatuous.

The L.C. allude to national standards being the panacea of all the ill's surrounding taxi and private-hire licensing, yet our association cannot find a single local authority in England and Wales that doesn't have minimum checks and balances already in place; be they CRB checks for drivers or the provision of at least proof of vehicle testing.

We find this a highly significant point; if the L.C. were completely convinced national standards will be a cure all; why can't and don't they cite a single local authority that fails in respect of the issuing of licenses without doing at least rudimentary checks?

In respect of CRB checks and as the LC will be perfectly well aware, rules prior to recent changes specifically prohibited local authorities from requesting enhanced CRB checks for drivers, the standard CRB was only permitted. It is therefore a gross misrepresentation to cite the CRB as being a national standard that has failed and one which differs from authority to authority.⁴³

8.5 is one particular example, it is stated;

8.5 The lack of a common core of standards means that a driver that is refused a licence because he or she is not a "fit and proper person" following an enhanced Criminal Records Bureau check may try their luck in a neighbouring authority which may well take a different view, and perhaps on the basis of only a standard check. Licensing officers that refused a licence may then find that same individual picking up

passengers in their area. If the journeys were pre-booked then there is nothing the licensing officers may do to prevent this.

Whilst we do not doubt the integrity of the L.C. we find it disquieting the above is included within the document with no apparent example or citation being offered in respect of the point made.

It is equally mystifying that the LC have little to say in respect of dual licensing, a situation where a local authority issues a single license where the driver is able to drive either a private hire vehicle or taxi. Whilst we have reservations about these licenses, there is little doubt of their usefulness in certain areas. The LC have stated their wish for private hire licensing to be outside of the claws of local authorities in respect of conditions – yet in areas where there maybe dual licenses these conditions may be classed as arbitrary.

8.6 (quoted below) is equally mystifying, we are aware of the governments flagship policy of Localism, yet the L.C. appear to refer to localism as creative of the problems associated with ‘out of town’ hackney carriages working in areas where they are unlicensed – citing perceived lower standards. The taxi and private hire operations of a rural area are inherently different to urban locations. There isn’t a one size fits all model of licensing available that will suit the differing needs of both PH trade and PH customer, it is far better to leave the licensing requirements of all areas for locals to decide upon.

Further to the above we are surprised to see virtually no mention of Air Quality Management Areas (AQMA) in the documents, save for two sentences at 4.59 & 4.60 in relation to vehicle age limits.

The air quality in each area is the responsibility of local authorities⁴⁴. A number of areas are currently considering their air quality strategies, amongst these are York⁴⁵. It may well transpire that London (for example) needs to address the pollution omitted by its licensed fleet for the benefit of its citizens. If a national standard is in place this could well be arranged by the Secretary of State, however, due to the act being national it may have a roll on effect across the country. This type of legislation is patently ridiculous; especially

considering any derogation towards London may lead to licensees licensing themselves elsewhere, only to continue working in London.

8.6 The intense localism of the current licensing system means that areas which require lower standards, have lower fees or less enforcement may attract licensees who have little other connection with that licensing authority. This can be a particular problem for authorities that are perceived as "honey-pots", like London or Liverpool for example, which attract vehicles licensed elsewhere.

We find 8.7 equally disturbing, showing naivety towards the testing of vehicles. Current law permits local authorities to test vehicles a maximum of three times per year. Some local authorities do this on the basis of the older a vehicle gets the more it needs tested (this system is operational in Carlisle and other areas). The reasons behind these decisions are based upon evidence gathered from test sheets and subject to consultation; quite simply the older vehicles in the fleet were failing tests more regularly than newer vehicles.

Of course, the evidence gathered in Carlisle is not typical of other areas, it is therefore clearly important that locals have control of localised procedures.

8.7 There is little uniformity in the content and frequency of vehicle testing by local authorities and stakeholders have told us it varies considerably. In London, for example, mid-year MoT checks were scrapped for taxis in 2008 but kept for private hire vehicles. Different licensing authorities set different requirements for the internal condition of their vehicles, for example. Some may be as specific as determining the width of passenger seats or the size of a roof sign.

Novelty vehicles: In or out?

We believe the law is straightforward in respect of the vehicles that should be licensed. If the vehicle has below 9 passenger seats it should be subject to the private hire licensing regime. The fact a local authority maybe apathetic towards the licensing of these vehicles should not deflect from their responsibilities. Guidance is available from both the DfT and VOSA⁴⁶.

Safety for disabled passengers

This section appears to typify the confusing and repetitive nature of the consultation as we are again re-referring to statements that have already been stated. Paragraphs 8.19 & 8.20 relate to the services offered to disabled passengers. We have referred to this on previous pages of this paper. We again point out our surprise of a lack of citations in respect of complaints from the disabled community.

8.21 Lack of insurance cover

We have explored those situations where it is unclear whether a vehicle requires a private hire licence at all, or where a private hire vehicle engages in behaviour that may spill over into (illegal) plying for hire. These grey areas can have grave consequences for passengers. If a private hire driver is found to be illegally plying for hire, the journey will no-longer be insured. If the car has an accident this can have disastrous consequences for the passenger who will only have the limited coverage provided by the safety net of the Motor Insurance Bureau.

The above paragraph appears to suggest it would be in the best interests of the public to ensure all private hire vehicles have hire and reward insurance for the minority of private hire vehicles that illegally ply for hire. It would be useful if the LC could provide actual evidence of any case in the past 40 years where an insurance company has failed to give compensation to a passenger injured in a vehicle that has been illegally plying for hire.

EXCESSIVE BURDENS ON BUSINESS

Restrictive local licensing of private hire vehicles @ 8.22

Stakeholders have raised concerns about licensing authorities' imposition of over-prescriptive or seemingly arbitrary conditions, as well as conditions which place a heavy financial burden on owners, such as colour and age policies. Certain licensing conditions are a cost to the trade and may not yield a corresponding benefit to consumers. Our provisional proposals try to ameliorate this in respect of private hire vehicles by providing for mandatory standards that cannot be gold-plated by local licensing authorities. These are discussed in Chapter 16.

We believe it is tacitly unfair for the LC to describe certain conditions attached to licenses as 'arbitrary' without considering the rationale behind the original decisions or indeed citing the areas concerned. We imagine many factory owners of the early 1800's were similarly descriptive of laws banning child labour⁴⁷, yet nobody could now question the reasons behind those laws. We would point out that many of the localised decisions must be subject to consultation and debate at a local level.

One such example is Manchester City Council's colour policy in respect of private hire vehicles; this localised condition has been effective since November 2002. The main purpose of introducing and maintaining the condition was, and still is, public safety. By establishing a standard colour of vehicle, all of which carry the same style of identification stickers, the vehicles are more easily recognisable by members of the public as private hire. This is intended to avoid members of the public mistakenly getting into 'bogus' vehicles at great risk to themselves, or confusing private hire vehicles with hackney carriages and trying to flag them down.

The policy Manchester Council decided upon – in respect of public safety - will be thoroughly undermined by the Law Commission position in respect of cross border activities. At the time of writing Manchester Private Hire Companies have sourced taxis from Rossendale, Bury, Gedling, Pendle, Ribble Valley, Cheshire East & Newport – there can be little doubt Manchester's policy is being thoroughly flouted by the individuals licensing vehicles 'out of town' – our compiled statistics show Manchester as the rape Capital of the UK.

Preventing cross-border services

We believe 8.23 to 8.25 are misleading and biased in respect of cross border activities, primarily, the title of the section gives a negative impression, this being that current law prevents a service, in our view this is deliberate.

Indeed, the title of the subsection describes the activity as a 'service' which of course the activity certainly is not.

The LC are perfectly well aware of the legal position in respect of cross-border hiring's, there is nothing in law to prevent a customer calling a private hire car from another area (nor should there be).

The following is stated;

"The advent of the telephone and the internet arguably makes this kind of restriction, based on the way in which private hire services were engaged over 30 years ago, unnecessary and artificial."

Again the LC use the word 'restriction', a deliberate negative in the context of the above sentence, they additionally state the '*advent of the telephone and the internet*' in the possible hope that telephone and internet technology actually makes a difference; the obvious point is that the call or booking must be received by someone who holds a license – how it is communicated is of little consequence.

We were equally enamoured to the statement;

"The borders between different localities do not correspond with the way people use private hire services. For example, current regulation may stop an operator from providing a free-phone at a supermarket or at a hospital in a different licensing area (which may be just across the road from the operator's premises) since this can be regarded as inviting bookings out of area and is therefore not permitted."

We found the particular use of a Hospital in the description quite emotive, we would have perhaps suggested a freephone in an orphan's home or animal refuge as undoubtedly they too would have similar effect. More seriously, it is instructive the LC appear to consider

that PH companies 'provide' free-phones at supermarkets, the thought seems to have missed the LC that a free-phone is invariably tendered for in a far from transparent process.⁴⁸ It also appears not to have been considered why a PH company may choose to tender for a freephone they must surely know is outside of their licensing area, or indeed the motives behind the supermarket (or hospital) for either inviting or accepting the tender.

We also found the following statement at 8.25 quite astonishing;

The "triple licensing" requirement places a serious limit to the services private hire operators may provide. Not only will certain licensing authorities not allow a provider to serve a particular locality unless they take a local licence, many licensing authorities refuse to license private hire vehicles licensed in more than one area. This means that operators may not be able to effectively serve their desired customer base.

We found the word 'serious' a tad over dramatic given the plethora of synonyms available, 'serious' is being told in casualty that you need an air ambulance to Freeman Hospital in Newcastle in a matter of minutes or you'll die.

It is a fact that a private hire operator can accept a booking from anywhere in the UK which does seem to have been sadly missed. We would ask why an operator would wish to operate in an area other than where their 'desired customer base' is actually located. A question overlooked by the LC.

Ban on sub-contracting outside of London

At 8.26 the LC state;

Under the current law it is illegal for operators outside of London to sub-contract any of their services. This means that an operator cannot ask another operator to fulfil a booking where the original car becomes unavailable or breaks down, or where it would simply be more efficient for another vehicle to undertake the journey.

The LC are quite correct in the above statement, it is a perfectly reasonable and innocent explanation of the current system, however this explanation does not appear to have any rationale with provisional proposal 41 which is not only an incorrect appraisal of current legislation, but seemingly duplicitous in the context of 8.26. It is one thing phoning a private hire operator in another area in the event of a mechanical breakdown, it is quite another for an operator to actively obtain vehicles licensed elsewhere to pay a weekly radio subscription.

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority.

Over-inclusive licensing

In 8.27 to 8.29 the LC somewhat dramatically declare that aspects of the licensing system are over inclusive;

8.27 states;

“Although the Department for Transport published guidance suggesting that such activities would typically not require a licence, this is not binding nor consistently applied.”

Again, it is surprising whilst the LC allude to some licensing regimes being over inclusive; it doesn't deem it necessary to cite examples.

8.28 refers to the voluntary sector, with private hire licensing potentially losing volunteers through the cost of licenses. They cite a document by J Rogers and S Ridley (In House Policy Consultancy), the imaginatively titled *“Review of the Impact of the Repeal of the Private Hire Vehicle Contract Exemption (4 November 2009).”*

We believe the reasons behind the LC desire to see voluntary drivers outside the scope of licensing has little to do with the safety of the travelling public and everything to do with the potential for additional costs to hospital trusts etc

We find the assertion that those who employ the services of volunteer drivers will have checks and balances in place to ensure drivers are CRB checked and suchlike – is an assertion too far – history tends to suggest that self regulation is a bit of a disaster.⁴⁹

They carry on suggesting the contract exemption should return. We find this illogical.

Barriers to entry: quantity controls

We intend to dedicate our own chapter to quantity controls in addition to what we have already written earlier. We would suggest the LC is misguided at 8.34 where they state;

“We also note that the current statutory criterion for imposing quantity controls, based on the concept of “unmet demand”, and the practice of carrying out specified surveys to support these are burdensome, costly and of doubtful utility.”

The LC prefers the market to decide, we are of the opinion that the ‘free market’ they aspire to, is anything but free for the reasons set out in other areas of this paper.

The usefulness of demand surveys does however vary. Some for example give local authorities feedback from the public about the service, any issues they may be concerned with and how they feel it can be improved. Some surveys suggest locations for additional ranking. The usefulness of these surveys to both the taxi trade and local authority have not been explained by the LC for two possible reasons, firstly they are possibly not aware of what a survey looks like, which would suggest they haven’t done sufficient research. Secondly, they are not interested in surveys because they come into the arena with a preconceived idea of how taxis should operate. They neglect to mention that surveys are not an expense of the tax payer they are paid for via licensing fees, again, this would confirm the scenarios mentioned above.

Archaic legislation stifling innovation

Again the LC uses a quite provocative and misleading sub heading for this particular section. The word ‘Archaic’ being a somewhat strange choice of wording given the far less provocative alternatives, however, if we consider the LC mission, the word is selected with the reader in mind.

The LC suggests with the sub heading that legislation has stifled innovation. It is a statement that doesn't actually stand up against fact. From two-way radio systems – to satellite communications and iphone 'apps', the taxi and private hire trade have been at the forefront of innovation over the decades – to suggest legislation has held the taxi trade back is a complete myth – one usually voiced by large private hire proprietors when they cannot get their own way. We are surprised the LC has fallen for this particular rouse.

We were (as outlined above) somewhat mystified by this section, which appears to consist of a lot of words, not necessarily in the right order (to paraphrase a sketch by Morecambe & Wise). 8.35 to 8.38 do appear to show a lack of understanding of technology. The 'cab apps' are currently being rolled out across the country, Blackpool being one obvious example, rather than oppose technology the taxi trade has embraced it⁵⁰.

Obviously there is no law to currently prevent a taxi driver from accepting a booking via such technology; the legality of this comes courtesy of the case Brentwood vs. Gladen⁵¹ (as mentioned at 10.41 in the LC document.) It is again instructive to note the LC position in respect of the aforementioned case seems to be in line with the thinking of their advisor in chief (or 'consultant' as the LC refer to him) James Button. In the case the judge famously stated (at 30) the following in respect of Mr. Button's book (whom Brentwood Council were relying upon in court);

With the greatest respect to Mr Button, I am afraid I cannot agree with what he there says. It seems to me apparent that section 80 excludes hackney carriages from section 46(1) (d). I say that because, without going in detail over ground that I have already covered, "operate" relates to business in relation to bookings for a private hire vehicle. An "operator's licence" means a licence under section 55, and a "private hire vehicle" is defined as meaning a vehicle other than a hackney carriage. Thus, that, coupled with the provisions of section 55 and 56 which I have already read, seem to me to make it apparent that Parliament has recognised that different regimes apply to hackney carriages and to private hire vehicles, and that it is not necessary for a licensed hackney carriage, driven by a licensed hackney carriage driver, to be subject also to the requirements of an operator's licence; otherwise the limitations on the wording which Parliament has clearly set out would not be given their true meaning.

Private hire drivers are not entitled to utilize such technology as the law states that their work must come via a private hire operator; it is again instructive, but understandable, that

the LC do not appear to have considered changing this. The upshot of this neglect is undoubtedly to the benefit of private hire operators who have absolute control over what work is allocated to vehicles operating under their license.

Use of the word “taxi” in promoting private hire services

At 8.39 the following is stated;

8.39 **The current law is highly restrictive in how private hire services may be advertised.** *“Taxi” is a simple, user-friendly term for describing private hire services. That they are unable to use it can disadvantage such services by improved enforcement and protecting legitimate businesses making it harder to promote their business. This is particularly problematic as most members of public are unaware of the distinction between a taxi and private hire vehicle. In Chapter 14 we explore ways in which private hire operators may better advertise their services without leading to confusion with taxis and their unique ability to ply for hire at ranks and through hailing.*

We highlight the section above, as it cites the following;

“Local Government (Miscellaneous Provisions) Act 1976, s 48(1) (a) (ii); Private Hire Vehicles (London) Act 1998, s 31.”

Whilst we appreciate the citation, certainly in respect of the Local Government (Misc Prov) Act 1976, s 48(1) (a) (ii); the LC are incorrect. This section of the act states;

(ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;

The 1976 act in itself has nothing to stop a private hire company passing itself off as a ‘taxi’ company, although a number of local authorities have during the past two years attached a condition to private hire operators licenses forbidding the use of the word ‘taxi’ (and other similar words) in company names; Burnley is one example.⁵²

A resounding theme from both the Law Commission and indeed the wider general public has been an accepted ignorance of the key differences between Hackney Carriages and Private Hire.

The LC is correct in so far as the Private Hire Vehicles (London) Act 1998 is concerned. Although this act is more or less an updated version of the Local government (Misc Prov)

Act 1976, it appears to have addressed some of the fundamental issues experienced in the provinces, including company names.

Prior to the 1998 act there were a number of prosecutions in respect of 'Minicab' companies passing themselves off as taxi companies *Atkins v Green [HC QBD] 1970* being one such case.

The association believes sections of the London Act mentioned by the LC could address problems experienced within the provinces. Section 31 prohibits private hire companies from using words such as 'taxi', 'taxis', 'cab', 'cabs' or any words closely resembling such.

8.41 Hearings and appeals

Remedies for aggrieved licensees are often unclear. It appears particularly unsatisfactory that where a licensing authority imposes a condition of general application, it is up to individual licensees to either seek judicial review or to challenge the decision not to issue their licence. If the latter route is taken no precedent is set and the condition can, in principle, continue to stand for other licensees. There are also historic anomalies, such as taxi drivers' direct recourse to the Crown Court which private hire drivers do not benefit from.

Like so much of this document we are told *"Remedies for aggrieved licensees are often unclear."* We are then told via the footnote; *"For further discussion see Chapter 6."*

Chapter 6 is titled 'Hearings and Appeals', it covers approximately 3000 words yet despite the hyperbole gives way to some rather poor provisional proposals and questions, these were as follows;

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. (Page 230)

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. (Page 231)

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court. (Page 232)

Question 73

Should there be an onward right of appeal to the Crown Court? (Page 233)

Steering away from the rather daft provisional proposal numbered 70, it is rather clear the provisional proposals 71 & 72 and questions 73 are more or less what go on already.

It would appear the 3000 odd words used have resolved relatively little.

Interestingly, and as mentioned elsewhere in this paper, chapter 6 (paragraph 6.15) alludes to drivers drawing out the appeals process. Of course (and not mentioned by the LC in this area of their document), if a local authority believes a driver a risk to the public they can obviously enforce section 52 of the Road Safety Act 2006 – which permits them to suspend the driver with immediate effect.

This act has been used (read abused) by numerous local authorities to deprive a driver of the right of working pending appeal, we mention this elsewhere in this paper.

Costly litigation

8.34 states;

Litigation and uncertainty are costly and have a chilling effect. Licensing officers are not clear about what they should require by way of specifications and conditions, and licensees similarly cannot predict whether certain conditions might be lawful or not, nor whether or not they must get a licence. Our provisional proposals aim to improve the clarity of regulation and to promote consistency though more nationalised standards. This can help to limit the grey areas where disputes about licensing requirements are most likely to arise.

We find the above statements quite astonishing, it gives the impression licensing officers are responsible the imposition of attaching conditions to licenses. The rather more mundane truth is that councillors decide policy, licensing officers, as employees, are paid to enforce them. We are additionally surprised the LC appears to have perhaps not considered that licensing policy may be scrutinized by the legal services departments of Local

Authorities or indeed the representative bodies such as NALEO⁵³ or the IOL⁵⁴; this is without taking into consideration any consultation which should have take place with local stakeholders.

ENSURING AVAILABILITY

We were somewhat bemused as to the reasons why this section was in the document; we read it and then read it again, we must admit we are still at a loss. The LC refer to taxis being available, taxi touting, illegal plying for hire and disability issues, then tell us to carry on to chapter 11 where it will become clear (this would be considered a bit of a flaw if it were a murder mystery). Sadly it doesn't become clear in respect of how availability will be ensured, although the chapter, which we will comment upon later, does mention disability issues.

A rebuff of chapter 9 – Quantity Restrictions

As a little bit of an opening we would wish to point out some difficulties we often find in the use of the English language (coming from Cumbria we tend to use English as a second language anyway). The title of chapter 9 is one example, the word ‘restriction’ has numerous synonyms these include constraint, restraint, limitation and so on. The word is quite negative, before you read the chapter you are perhaps already thinking about the ghastly implications of restriction.

A better word would perhaps be ‘control’, the synonyms include (and thank god for MS word), manage, organize, be in charge of and suchlike. In other words, it gives a far more positive impression of management.

Whilst we would once again forgive the LC for this misuse of our language, we should point out we appear to be forgiving the LC an awful lot for minor errors throughout this paper

We find it instructive the LC has considered the experiences of deregulation in other countries, these being France, Australia, Ireland, Holland & Sweden. We would point to the statement;

“Our studies of Ireland and Sweden suggest that although those within the industry are often dissatisfied following deregulation, consumers generally benefit. This has not been, however, the experience in the Netherlands, where users, particularly in cities, have developed a very negative view of taxis.”

The LC suggest in the above statement that these were their studies, although we are reasonably confident they actually mean these are a result of the studies of the OECD round table (which they cite at various points in their documents.) As a writer of some note, and if my advice is wanted, if you are going to plagiarise, make sure you plagiarise something your readership won’t have read.

We find it rather odd the LC would wish to examine the experiences around the world with taxi deregulation, as the UK is far nearer, places in Europe and Australia are seemingly considered, yet there is precious little in respect of the US. This country however, has endured taxi deregulation in various areas for the better part of 30 years.

We find it sadly unsurprising that no reference has been made - anywhere in the document - to the various areas of **this country** where local authorities have deemed it necessary to re-limit taxi numbers due to major failings in the policy of deregulation. A fair document would have perhaps mentioned the experiences of Liverpool, Cardiff, Wirral and Sefton as opposed to Paris, Stockholm, Amsterdam & Dublin.

The LC dismissal of unmet demand surveys at 8.34 would appear to be sufficient reason for them not to take this type of evidence into consideration. A fair document would have perhaps studied the many available documents as part of a fair assessment.

The association is well aware of the view of the government 'best practice guidance' in respect of local authorities having the ability to control the number of hackney carriages within their area.

The association is of the opinion that if a regulator is to maintain and operate the licensing function of any area, it must surely follow that there should be some ability to regulate the number of permits they issue, all be the fact that they may not wish to do so at a particular time. There may come a time where regulation may become not only necessary, but more or less essential.

We believe consideration should be given to the cases of both Liverpool during the mid 1980's and Cardiff 2010, where hackney carriage numbers were limited on the advice of the police, who believed the over-abundance of hackney carriages was creating a dangerous situation within the city centre's of the respective areas.

In respect of Liverpool the Earl of Winchilsea and Nottingham commented⁵⁵ ;

"This has caused the Chief Constable of Merseyside a great deal of unhappiness and in his annual report he confirms the situation but is not really able to do anything about it. The situation in Liverpool is really quite dire—not just because of the taxis, as we all know, but taxis constitute some part of the total situation—and the public are at great risk."

The following was stated in respect of Cardiff⁵⁶ ;

"South Wales Police now support the imposition of quantity controls to limit the availability of taxis to the public. In a letter to the Authority of 20 November 2009 South Wales Police indicated that they

support the limiting of taxi licences on the grounds that there is insufficient rank space for the existing fleet of vehicles which results in dangerous parking and ranking by licensed vehicles as drivers rank up unofficially throughout the city centre.”

The removal of any ability for a local authority to have some-form of redress over numbers (in the case of taxi law satisfying the requirements section 16 of the 1985 transport act) would potentially lead to a situation where the sheer weight of numbers (of taxis) has created a problem, but there is nothing in law the local authority can do to remedy the situation – this is a quite unbelievable wager on the part of the LC.

Liverpool’s taxi numbers rose from 400 hackney carriages to 1400 vehicles within a short period of time.

Cardiff’s taxi fleet increased from 480 to 957 over a 7 - year period.

The above figures are truly massive increases in numbers – even if the association negates to mention the economic argument – the physical presence of such numbers creates an obvious problem.

Whilst the association may accept – to a degree – that increases in the numbers of hackney carriages invariably lead to decreases in the number of private hire vehicles (although in the cases of Liverpool & Cardiff it actually wasn’t), it must surely be a consideration that the increased number of hackney carriages stand and ply for hire within the Town and City centre’s – thus creating traffic management and pollution problems.

Crawley Council re-limited Hackney Carriage numbers earlier this year. Amongst the reasons given were “overcrowded taxi ranks”⁵⁷.

For the reasons given above the association consider local authorities, having considered local circumstances, to be best placed to determine the number of hackney carriages able to cater for their specific area.

The association believes taxi services should be assessed, by way of demand surveys and public input, every five years, as part of a wider local transport plan (LTP). Historically LTP’s have neglected the licensed taxi trade; this has been much to the annoyance of successive governments and to the frustration of the taxi trade.

The association additionally believes far greater consideration should be made towards the Hackney Carriage trade during planning applications, very often taxis are the poor relation to other forms of public transport.

The results of such studies will assist both the local taxi trade and local authority towards improving the service offered to the wider public.

The following is stated at 9.4 in respect of London;

No statutory power to restrict numbers in London

Perhaps ironically, given that number controls were originally introduced in order to manage congestion in the capital, there is no statutory power to control taxi numbers in London. The power to limit numbers in London was first abolished in 1833 upon consolidation of the taxi legislation. On the other hand, the stringent knowledge tests required of drivers in London and the costly vehicles required to meet the conditions of fitness constitute a significant barrier to entry and are widely regarded as achieving an equivalent result to quantity regulation.

Sadly, the above statement doesn't actually sit too well with TFL notice 13/11⁵⁸ where it is stated;

"Given the particularly high number of existing drivers and Knowledge students in the sectors listed below, after 31 January 2012, TfL will not process any new applications received after this date for suburban licences for the following three sectors until this full and detailed review and subsequent consultation has been completed:"

We suppose it's another thing about the English language, where the LC states "*there is no statutory power to control taxi numbers in London*" it could well mean "*TfL will not process any new applications received after this date for suburban licences*".

Whatever the legality of the TfL decision, the fact seems to be that London will limit licenses (sorry, not process applications) when it decides to.

9.8 was a tad controversial and worthy of a chapter in its own right;

Where a licensing authority wishes to impose numerical restrictions, it is asked to look for something (unmet demand) which it almost invariably does not wish to find so that it may use its discretion to restrict numbers.

Yet the stated purpose of unmet demand surveys is, in principle, neutral and only meant to take into account the interests of the travelling public.

By contrast, the practical decision will more often be taken in the context of vocal representations of the trades organised through trade unions.

This is understandable as decisions on derestriction have a direct impact on the financial interests of persons working in the trades and they tend to be more organised than consumer interest groups.

This ties in with the political dimension of decisions about whether to de-restrict and it is difficult to unbundle these difficult and competing considerations into a transparent and balanced process.

We find 9.8 rather unprofessional. The charges are furious, seemingly casting assertions upon local authorities. If the LC wish to state they believe local authorities are corrupt, hey....we'll go right ahead and kind of agree with that kind of assessment, after all the former Chair of Carlisle's licensing committee (and former Mayor) was perhaps the prime mover in Carlisle's taxi fleet suffering deregulation, she told one colleague to "***sit down and shut up, we're going to deregulate and we don't care what it's going to cost you***", prior to the politically motivated decision to deregulate, she was later jailed for theft⁵⁹ (thus proving there is someone up there with a sense of humour).

At this point I would ordinarily write, "But seriously", however, I actually mean it. If the LC believes there are some types of crookedness or as economists like to word it, "regulatory capture", which is basically the same thing, then they should tell us, as opposed to alluding to such fraud.

Of course, cutting through the semantics the theory of 'regulatory capture' is merely that, a theory. The fact of the matter is that in respect of taxi regulation, it is a phrase used when those wanting a free market feel the regulators are in conspiracy against them.

Whilst the LC can state; "***it is difficult to unbundle these difficult and competing considerations into a transparent and balanced process***". It is reasonably clear from

their initial wording that they believe the system is set against what they actually want, which is of course deregulation.

Naturally the above two paragraphs would tend to suggest there is a flipside to the points raised by the LC.

It is clearly important people are aware of the phraseology within the act. It is stated at section 16 of the 1985 Transport Act;

“as if they provided that the grant of a licence may be refused, for the purpose of limiting the number of hackney carriages in respect of which licences are granted, if, but only if, the person authorised to grant licences is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet.”

In other words if a local authority deems it necessary to have a limit on the number of taxi licenses it issues, it must only have proof of unmet demand when refusing an application.

Whereas the LC describe a situation; ***“Where a licensing authority wishes to impose numerical restrictions, it is asked to look for something (unmet demand) which it almost invariably does not wish to find so that it may use its discretion to restrict numbers.”***

The Law Commission attitude towards surveys is set out above, yet it is difficult to reconcile the LC attitude towards taxi demand surveys with their own surveys to assess the happiness and well being of Law Commission staff⁶⁰. Indeed, as we will mention further in this paper, the LC attitude towards surveys appears to be one of positive recommendation at 14.59.

Of course the LC attitude towards surveys in the arena of taxis is different to their own house, but their refusal to accept them doesn't seem to be reasonable (especially in respect of 14.59). There have been at least two instances of surveys being questioned, Trafford is one example and the more obvious one being Plymouth⁶¹. The fact remains, demand surveys are transparent and open to scrutiny.

On the whole we believe the level of service deteriorates when an area is deregulated, this was emphasized to Richard Percival at a meeting in the North East of England during December 2011⁶² when the following was stated;

“TH then read the particular sections from the Transport Select Committee Response to the OFT Report. He then went on to say that Carlisle deregulated about five years ago, and it has since gone from a double to a single shifted operation with owner drivers “cherry picking” and working at the busiest times. It may be easier for a drunk to get home at 3.00 am on Sunday morning after a Saturday night drinking session, but poor old Mrs Smith has great difficulty in obtaining a taxi at 6.00 am to go to the railway station as all the drivers are in bed. The Council have recently written to all licence holders to ask if they are prepared to pay an extra £30 per year over the next three years on their annual licence fee to fund an Unmet Demand Survey. This is with a view to once again being able to impose quantity controls, as there is now an oversupply of taxis in Carlisle. Other Local Authorities have also had to re-introduce quantity controls recently due to the oversupply of taxis and the resulting congestion that it has caused.”

The following was stated at a meeting in Exeter during June 2012;

Tom Harrington: You used the word snapshot to describe relimited. Obviously the only example I’m going to give you is a snapshot, I haven’t got a clue about what’s going on in the rest of the country but we run a 24 hour taxi and private business in Falmouth. You can always get a taxi in Falmouth, it’s never a problem and Cornwall’s quite an interesting case because very close to us we’ve got zones that are delimited. So we’ve got Helston which is literally 11 miles away and we get phone calls almost every single Sunday from 5am til almost lunchtime from people in Helston who cannot get a taxi in Helston because what’s happening is, people have got their own cabs, they go out Saturday night. It’s the only time they can make any money, they are all out there at that time. It comes to Sunday morning and at that time there is absolutely no service. There is no-one there to take the ladies to church and it’s an important thing in Falmouth because we are regulated and limited on numbers there is an entrance into coming in to our market so we run our businesses properly, there’s always someone out, we are providing that service not just for the rank but for the phone calls, it’s all entwined but it is a very important part of the community, especially on a Sunday morning with all the old dears going to church. Now, I can only talk using your words in a “snapshot” but I’ve got no other examples. I am sure there are other people in this room that could probably give similar examples of where delimited has led to a lot worse service and that’s surely what we are here to discuss, I’m surprised no one else has mentioned it.

The resounding theme in both Carlisle and in Falmouth – areas almost 400 miles apart - is of a worse service in terms of coverage to the public after deregulation – it is a case of those market forces referred to by economists coming to the fore – drivers working when they know they can earn money – as opposed to having any regard to the general service they offer. This is further supported by evidence reported from Durham, which will be mentioned in the section titled ‘Zoning’.

The LC refer to this type of evidence as ‘anecdotal’, their further refusal to accept evidence gathered from surveys is equally revealing, in footballing terms it’s a little like breaking the opposing teams centre forwards knee-caps with a baseball bat before the game starts.

As the Consultation Paper addresses the serious criticisms by the Transport Select Committee of the OFT study there is no real need to continue with the points from the OFT study that are raised in the Paper. However it must be stated that there is greater emphasis given to the seriously flawed OFT Report by providing six whole paragraphs referring to its contents and only one paragraph to the report of the Transport Select Committee which examined the OFT Report and which trounced its recommendations. This is an obvious prejudice in favour of the OFT, who the LC inadvertently quote in various sections.

The following is stated @ 9.22

In 2007, Europe Economics undertook a follow-up study evaluating the impact of the Office of Fair Trading’s report. Europe Economics recognised problems with the way the original study was conducted, in particular in respect of market definition, interactions between different regulations, and inadequate assessment of consumer detriment and benefit. Overall, Europe Economics found that although customer waiting times decreased more as a result of de-restriction (a key consumer benefit), driver waiting times rose disproportionately leading to an overall decrease in productive efficiency in the industry. On the other hand, derestriction resulted in increased utility through additional taxi journeys and an overall consumer benefit.

As the use of the English language has been pointed out more than once in our paper, we can only come to the conclusion this is a deliberate ploy. The obvious example from 9.22 is in respect of *“leading to an overall decrease in productive efficiency in the industry”*. The word ‘efficiency’ is used, where the statement actually suggests that taxis in deregulated areas are inefficient.

The LC then cite (and attempt to tear down) what they describe as ‘key’ arguments in favour of quantity controls.

Congestion and environmental considerations

9.25 states;

“The key argument in favour of maintaining a power to restrict taxi vehicle numbers lies in tackling congestion. This is closely related to environmental concerns about air pollution. On the other hand, evidence suggests that where taxis are not available, most people will opt to use a car rather than other forms of public transport and in many instances there may not be a public transport option. Congestion and emissions may also be controlled by other means.”

Having been involved in the taxi trade my entire adult life, and during most of my adolescence, I must honestly state I have never heard of the key argument in respect of controlling numbers to be around the issue of congestion. The lack of citation in support of this by the LC is again astounding. Again we point out the use in the paragraph of the word ‘restrict’, which is used to bring in a negative. The word ‘control’ could have been used.

What this paragraph is doing is setting up a supposed ‘key’ argument in favour of quantity control and then knocking it down. This is devious and duplicitous.

9.26 concerns over-ranking where the following is stated;

“The trades have emphasised the problem of too many taxis lining up at ranks, particularly in city centres and at transport hubs. Ranks compete with parking spaces and bus lanes and there is therefore limited scope for increasing provision. Limiting the number of licences reduces congestion at taxi ranks. However, there is evidence to suggest that removing restrictions increases the availability of taxis elsewhere in the district, with taxis congregating in town centres. Local authorities could address this through innovative approaches such as use of temporary ranks at peak times.”

The LC then cite the 2003 OFT report and in particular paragraph 4.70 where the OFT stated the following;

“There is limited evidence to indicate that overcrowding has been a problem in LAs after the removal of quantity controls. Our case studies, however, show that where this is an issue, the market often adjusts with a smaller proportion of taxis waiting at ranks and a greater proportion plying for hire on the street or expanding to serve different areas. In Bristol, after the removal of quantity controls, it was noted that taxis were serving more residential areas which had previously not had any service.”

The OFT carried on to state at 4.71 in their decade old document;

“While we accept that potential rank overcrowding is an issue for La’s without quantity controls, in our view it can be managed. For example new ranks or temporary ranks to cover weekend and evening peaks may be created. Marshals could also be used at peak times to help speed up traffic flow.”

The duplicity of the LC is more or less confirmed above. They are more or less quoting the OFT report as a fact – the reality is that this report was roundly condemned by the House of Commons Select Committee who stated;

"The OFT report manifestly does not contain the evidence required to support its only proposal for legislative change: the abolition of quantity regulation. Its figures only support its case with considerable "adjustment" (which is never explained), its statistical and survey evidence are flawed, and it fails to consider the relationship between the taxi and PHV markets. Nor does the OFT explain why the taxi and PHV market has been the fastest growing form of transport over the last 25 years, and has grown by more than 40 per cent in real terms since 1994, if quantity restrictions have been so detrimental. Its recommendations on quantity control should be rejected."

Returning to the LC points at 9.26 they are seemingly relying on dubious information in respect to their conclusion. The BBC reported in respect of Bristol⁶³;

"Taxi and private hire drivers competing for late night business outside pubs and clubs in central Bristol are putting lives at risk, it is claimed. Bristol City Council says there are so many drivers crowding in to the city centre that some are posing a danger to other road users and pedestrians."

The LC state at 9.29;

On the other hand, areas which have de-restricted have not had uniform experiences, with some areas enjoying improved provision. However, changes to licensing policies are rarely about numbers alone and include other variations to licensing conditions, for example, in respect of standards. This makes it hard to establish and isolate the relationship between a change in numbers policy and the impact on provision.

Sadly 9.29 is completely without citations attached therefore it must be either an opinion or anecdotal.

Paragraph 9.30 gives way to a statement that takes into account some imaginary 'anecdotal' evidence. We use the word 'imaginary' as we believe the first sentence of the following statement defies logic and reason.

Anecdotal evidence suggests that increased taxi numbers can result in decreased provision at the times when taxis are most needed. This is because where plate numbers are restricted, drivers who wish to enter the trade are forced to take less popular shifts in order to use the vehicle. Maximum use is made of the vehicle and night time provision is increased.

The experience in Carlisle is that during peak periods the coverage by taxis is greatly increased – much to the detriment of everyone, Race days are an obvious example; the number of cabs working increases due to drivers adjusting their shifts for the anticipated busier periods – in turn this leads to a less efficient coverage during the perceived quieter periods.

Paragraphs 9.32 to 9.36 concern hardship to existing drivers. 9.32 states;

Many stakeholders representing the taxi trade have highlighted the perceived unfairness of de-restricting to those who have paid a shortage premium in order to obtain a licence. In areas where the number of licences is restricted, existing licences attract a high value when traded. Many licence holders have made a significant investment and taken out loans, and for many it represents a nest egg which can be called on later in life. Many licence holders make money through renting out their vehicle. Indeed, in Ireland the financial detriment to individual drivers upon de-restriction was such that a hardship panel was put in place to help deal with the problem.

The use of the word ‘perceived’ perhaps suggests any unfairness maybe a figment of the imagination, in a similar way to how fairies operate at the bottom of the back garden (bastards).

However the LC appears to have taken it upon itself to describe a scenario as a sale of a business as a ‘shortage premium’; that is to say there is a shortage of vehicles therefore there is a premium for licenses (as described in their citation). They then carry on by stating *“existing licences attract a high value when traded”*. They seemingly do not believe it necessary to advise specifically what defines a ‘high value’, again, this appears to expose the document as flawed in respect of research. They additionally negate to mention that the ‘shortage’ is after the scrutiny of a demand survey that actually proves there is no unmet demand in respect of custom.

The wider questions are naturally; does the LC mean that money paid for a business which is being sold, is a shortage payment? Or is it simply being paid because the business is a viable business and makes a profit? There appears to be little concern at this more likely scenario. The terminology once again displays an ingrained prejudice against regulated issue of taxi licences and the sale in controlled areas of taxi businesses. The word "restrict"

is used in place of the word "regulate" or "controlled". "Restrict" has greater negative connotations than the word "regulate".

At 9.38 the LC state;

"At the time of writing, 92 councils regulate the number of taxi licences, which constitutes around 26.7% of licensing authorities in England and Wales. Some councils which have de-regulated have now taken the decision to reintroduce limits (for example, Cardiff, Chesterfield, Coventry and most recently, Wirral). We note however that the reasons for re-introducing quantity restrictions may also include political factors."

The LC then point to the OECD roundtable document of some 252 pages, suggesting without any great sense of irony that reasons for re-introducing 'quantity restrictions' (there's that biased phraseology again) may also include political factors. The obvious irony (in respect of the LC's mission from the DfT) is their political objective of ensuring a deregulatory approach and the approach towards localism⁶⁴.

The LC (as noted elsewhere in this paper) then take to the seas to advise about numbers control in other countries, at 9.39 they reach the shores of Australia, yet cannot help themselves by making a passing comment about the UK and possible tax avoidance, they state;

"A number of countries give licensing authorities the ability to restrict taxi numbers. Those who do not have generally removed the power to do so recently and their experiences provide interesting examples of the result of numerical deregulation. It should be noted that the examples of numerical restrictions referred to below apply only to taxis and not to other forms of hire vehicles. Furthermore, in all quantity restricted areas, licences attract a scarcity value. This value varies between jurisdictions: from a few thousand pounds in the UK, to \$500,000 AUS in the Australian state of Victoria. This then leads to trading in licences, sometimes with a handful of individuals owning a large number of licences. Whilst this is not illegal in any of the states studied, it often takes place at least partially on the black market, for example, in order to avoid tax implications."

The references to a 'black market' are obviously intentional as to suggest to the reader that there is underhandedness in the sale of taxi businesses – which of course there is not. Indeed, under current law a local authority **must** alter its register of hackney carriage proprietors when interests are transferred⁶⁵.

After the grand world tour (we're very happy this was via Google rather than British Airways) the LC appear to begin a large paragraph with lots of words which will be confusing to virtually everyone, they conclude in respect of taxi deregulation across the world (at 9.58);

"The studies above illustrate the complexity of regulatory reform and the difficulties inherent in predicting the outcome of changes. Rarely, if ever, does numerical restriction occur on its own. Whilst quantitative deregulation is often criticised for giving rise to such problems as over-ranking, congestion, higher fares and lower standards, the comparative studies above show that often these effects can be linked to other reforms, such as the removal of fare regulation and changes to standard-setting. Furthermore, accompanying reforms can rectify damage caused by de-regulation, for example by ensuring standards and service levels. Studies show that the balance of regulatory and deregulatory instruments is essential to the outcome, and that it is vital that the structure of the industry and the way in which individuals work are understood and taken into account. Each element of regulation must be considered both individually and in conjunction with other elements of regulation."

The LC suggest to us that they now understand the taxi markets abroad, which is a rather interesting line to take, considering they appear to have more or less proven in their document a total ignorance of the UK taxi market. They claim the studies '*illustrate the complexity of regulatory reform*' when the fact's appear to be an illustration of the complexities of the different situations that prevail in the taxi markets in different nations.

The LC then state the 'inherent difficulties of predicting the outcome of change' which leads us to state if the outcome of a particular activity or "change" cannot be predicted then that activity is nothing other than an 'experiment' or 'guess'.

9.58 states in one sentence;

"Whilst quantitative de-regulation is often criticised for giving rise to such problems as over-ranking, congestion, higher fares and lower standards, the comparative studies show that often these effects can be linked to other reforms such as the removal of fare regulation and changes to standard-setting."

The removal of fare regulation and changes to standard-setting will only affect fare levels and standard-settings. They cannot possibly cause over-ranking and congestion. To suggest that is the case is highly misleading.

The LC carries on to state;

Furthermore accompanying reforms can rectify damage caused by de-regulation for example by ensuring standards and service levels.

It is instructive the sentence is a seeming admission that deregulation can cause damage, however, there is no detailed explanation in support of the above statement that proves deregulation can be rectified. Especially considering the Irish Taxi Hardship panel had to consider compensation to widows – unless of course the LC has developed a strategy which brings the dead back to life?

The Elephant in the tent

One of the largest disappointments in the LC document has been their complete lack of vision in respect of the future of the taxi trade; they have become bogged down in many areas by a dogmatic doctrinal approach. In all too many respects this is a frustration. The failure of the LC to ‘think outside of the box’ has seemingly shackled them to the consistently failed approach taken by numerous local authorities who have chosen to deregulate.

One thing that is completely absent in the report is a discussion of local revenues to be gained from the sale of taxi licenses, and from taxes on transfer of licenses among private license holders. This is an unacknowledged "elephant in the tent" considering for instance that New York City's current year budget includes \$1,000,000,000 (billion) in projected revenues from the sale of new taxi and for-hire permits. The sale of permits in NYC is currently tied up in court, but nobody disputes the arithmetic. Similarly, San Francisco is now wrapping up a two-year pilot program of taxi permit sales and transfers which has brought more than \$20,000,000 in new revenue to city coffers, and more than \$3,000,000 to a fund set up for driver welfare.

In both New York and San Francisco, the big winners are the people of the city who benefit from very substantial new public revenues at a time when budget shortages are the rule.

Ireland is an especially unfortunate case. The regulators could have greatly increased the number of cabs while generating hundreds of millions in new revenues for the public benefit, without going to the destructive extreme of unregulated entry.

More frustratingly the evidence is actually out there if the LC had chosen to do a little lateral thinking (or indeed proper research). A widely published article from the Southern Daily Echo from 2010 highlighted the money being earned from plate premiums⁶⁶. It hasn't apparently occurred to the LC in their document that local authorities could actually raise revenue from the regulated sale and transfer of taxi licenses.

The type of sale, governed by the local authority, would determine the 'scarcity' value and actually regulate any premium the LC considers is there. Arguably it would be to the benefit of a local authority to ensure its taxi trade is indeed profitable to ensure the business grows in accordance with demand. The LC appear to believe, and the proof is there by the LC's provocative terminology and use of the expression 'black market', that a premium is a sign of a taxi trade which profiteers – as opposed to a taxi trade that is in good health.

As mentioned above, the revenue generated from the sale of taxi licenses could be of great benefit, particularly in these times of austerity, to the local community.

A rebuff of Chapter 10 – Cross-border issues

We must admit we were quite impressed by the LC appraisal of the issues surrounding cross border, we would even go as far as suggesting it was a fair and balanced chapter. We naturally disagree with their conclusions, but it was fair and balanced nonetheless. We would even praise the LC assessment of cross border in respect of 10.20 where they state;

“It is important to recognise that the cross-border problem is thus very different as between taxis and private hire vehicles: taxis which pick up outside their licensing.”

As we mentioned in our foreword the LC view of taxi and private hire licensing hinges on various areas of legislation being put in place. The LC appear to believe if standards are the same cross border issue may well die a natural death.

The LC mention a device called ‘Am I safe’ at 12.27, we refer to this on page 77 and point out its reliance upon localised licensing regimes.

Our association is of the view that private hire and taxis should return to their area of license when they have completed a booking.

The LC reminds us of the words stated in *Murtagh v Bromsgrove District Council (15 October 1999) QBD*

This cannot be what Parliament originally envisaged ...The problem is to some extent the result of improved technology since the statute was passed, but the law needs to reflect the current state of technology and not be 23 years behind it.

The association believes the case of Newcastle City Council vs. Berwick upon Tweed (2008)⁶⁷ has had the benefit of assuring local authorities that they can refuse license applications when they believe the vehicle and driver will not be working within their licensing area. Given the potential for local standards to be circumvented, the association are surprised the Department for Transport does not appear to have offered advice on this issue.

The association believes the general principle has already been established in respect of the DFT issued model byelaws where at point 7 it states;

7) *The driver of a hackney carriage shall, when plying for hire in any street and not actually hired -*

(a) proceed with reasonable speed to one of the stands appointed by the Council;

(b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;

(c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction; and

(d) from time to time, when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.

In the case of DPP vs. Computer Cabs⁶⁸ established that a 'yellow badge' driver could lawfully pick up pre-booked passengers in the 'green badge' area, provided the driver was physically within his own area at the time of accepting the booking. The association believes this principle should apply nationally.

The complicated nature of the issues surrounding the reasons for cross border hiring's, certainly in respect of hackney carriages operating exclusively in other areas does sadly mean we have to mention standards attached to driver and vehicle licenses. It was cited in the Berwick case that amongst the reasons drivers licensed themselves in Berwick was because of lower standards than the area of intended operation (which was mainly Newcastle upon Tyne). Invariably Local Authorities instigate the attaching of conditions to private hire licenses for good reason. As we have mentioned elsewhere in our paper this could be bringing in an age policy due to evidence of older vehicles being less roadworthy than newer vehicles.

It could well transpire that a local authority is in receipt of complaints in respect of private hire drivers getting lost due to a lack of 'knowledge' of their area. Whilst the LC solution would be for the onus to be on private hire operators to rectify the situation, as poor

drivers may lead them to lose business, some local authorities firmly believe the greater benefit to the public is to ensure drivers are of a good standard upon license.

Following the LC logic to the extreme, there could be an argument that the Operator should be responsible for CRB checks and suchlike, after all, if they employ criminals, it will reflect badly upon their business etc.

If an area is a 'honeypot', it is reasonably obvious fees in the area will be higher in no small part due to enforcement (whatever the legalities) than smaller areas with less work. To expect licensees in 'honeypot' areas to effectively pay for the enforcement of other districts is bordering on the foolish.

It is interesting to note there is little about the implications of cross border hiring and insurance cover. A motor insurer needs to know where the vehicle is actually worked; some areas are cheaper to insure taxis than others. Having spoken to a number of insurance brokers they are quite concerned that a vehicle licensed in a perceived low risk area, will be worked in an area of higher risk – such fraud would likely lead to insurance cover being withdrawn

Insurance contracts

Thus the insured must reveal the exact nature and potential of the risks that he transfers to the insurer, while at the same time the insurer must make sure that the potential contract fits the needs of, and benefits, the assured.

A higher duty is expected from parties to an insurance contract than from parties to most other contracts in order to ensure the disclosure of all material facts so that the contract may accurately reflect the actual risk being undertaken. The principles underlying this rule were stated by Lord Mansfield in the leading and often quoted case of Carter v Boehm (1766) 97 ER 1162, 1164,

"Insurance is a contract of speculation... The special facts, upon which the contingent chance is to be computed, lie most commonly in the knowledge of the insured only: the under-writer trusts to his representation, and proceeds upon confidence that he does

not keep back any circumstances in his knowledge, to mislead the under-writer into a belief that the circumstance does not exist... Good faith forbids either party by concealing what he privately knows, to draw the other into a bargain from his ignorance of that fact, and his believing the contrary".⁶⁹

15.46 States;

"Under current law taxis may only ply for hire within their licensed area but may undertake pre-booked journeys anywhere in the country. We do not propose to change this. The scope for local variation in taxi standards and in particular the different fares and accessibility standards that may apply, mean that they should be restricted to working on ranks and to hailing passengers in their licensing area. On the other hand taxis would continue to be able to do pre-booked work 'out of borough' as they can under current law."

The above paragraph is incorrect; currently a local authority may refuse an application if they believe the vehicle will be used "the majority of the time" in another area. As mentioned elsewhere in this paper in respect of the Berwick judgement.

15.48 states;

"The move to a set of mandatory national standards would mean that although licences would be issued locally, by different licensing authorities, their requirements would be the same. Cross-border restrictions, and the so-called "triple licensing" requirement whereby the operator, driver and vehicle must all be licensed by the same licensing authority, would therefore fall away in respect of private hire services. This would further erode the significance of cross-border issues in respect of private hire vehicles."

We consider it as quite unbelievable that this suggestion is being made, each licence could be issued by a different authority and thus increase the complexity of the licensing accountability for private hire services. A driver could be licensed by local authority 'A', a vehicle could be licensed by local authority 'B' and the operator could be licensed by local authority 'C'. If a customer wished to complain about a driver, vehicle or operator the complexity of the complaint would transgress across three differing jurisdictions.

Rejection of a 'return to area' requirement.

15.50 states;

We regard the key problem with this option to be that it brings no consumer benefit whatsoever. On the contrary, introducing a return-to-area requirement would only lead to increased prices and reduced flexibility of provision. We consider that a return to area requirement is not justified as it is both inefficient and environmentally damaging. Both taxis and private hire vehicles could, after dropping off a passenger, legitimately pick up a different fare outside of their area pursuant to a pre-booking. Increasingly intelligent dispatch systems make the likelihood of matching up passengers with proximate vehicles a reality. If drivers were forced to drive back to their licensing area empty this would not only be expensive but also environmentally damaging as adding to dead mileage. Such a requirement would also be very difficult to enforce as a matter of evidence.

The LC surmise that a return to area requirement would ‘only lead to increased prices’, which is of course pure speculation, there is no actual proof of this being the case; indeed taxi fares are based around return mileage, in other words the customer is already paying for the cab to return to its district (or point of hire).

The LC use the word ‘forced’ in respect of the more appropriate word ‘required’, again, it’s a language thing, specifically designed to convey a negative.

We also question how the LC draw the conclusion that a taxi returning to its area without passengers is more environmentally damaging than a taxi returning with passengers.

15.51 states;

“The danger that an out-of-area taxi, or a private hire vehicle, may illegally ply for hire is a problem which requires specific action through targeted enforcement. If a driver wants to illegally ply for hire they are unlikely to be deterred through such an equivocal additional requirement. Scarce enforcement resources are unlikely to be most effectively deployed in enforcing such requirements.”

We believe 15.51 displays flawed logic in respect of the second sentence, if a driver has to return to his area, then they cannot possibly be in another area illegally plying for hire. The LC state ‘scarce enforcement resources’ yet seemingly fail to acknowledge that the licensing function should be self funding. Proposals have virtually nothing in respect of fees (which will fund enforcement) and it is unlikely that a scenario where funding is taken from local taxation will be acceptable given these times of austerity. It would appear what the LC are basically saying is that they won’t make a law against it, because they can’t enforce it anyway, a quite astonishing admission.

15.52 states;

“As also noted above the introduction of common safety requirements reduces the seriousness of the cross-border problem. If a licensed vehicle illegally plies for hire it may be competing unfairly and breaching various regulatory requirements but it does not present a safety risk. Minimum safety requirements that apply to both taxis and private hire vehicles mean that in certain key respects the vehicle is safe. The more serious safety problems relate to completely unlicensed vehicles. The cross-border issue in fact diverts potential resources from addressing this much more dangerous phenomenon.”

What the LC are suggesting here is that under their system it doesn't matter if vehicles illegally ply for hire because the risk is much reduced due to their new safety standards. As mentioned elsewhere in this section, the LC fail to understand that taxi insurance is dependent upon where a person works as opposed to where he resides; insurers invariably ask where the vehicle is licensed. Not, where it is worked. Again the LC mention national safety requirements yet have little idea what these requirements will be. They are presuming the standards will be greater (or more uniform) than they currently are, however they cannot cite a single local authority who's standards are lacking.

Chapter 11 Equality and taxis in the community

This chapter was well written and a reasonably accurate summary of equality and taxis in the community. However we have a number of issues which we state below;

11.12 states;

The suggestions detailed below relate, for the most part, solely to taxis. Licensing authorities have fewer powers in relation to numbers and vehicle specification of private hire vehicles, and it is not envisaged that existing powers in relation to taxis be extended to private hire vehicles, due to the broadly successful operation of market forces in this sector.

There appears to be no citation attached to the LC conclusion that ‘market forces’ are broadly successful in relation to private hire vehicles serving the wheelchair bound community. Indeed as mentioned previously, the ratio of accessible PHV’s is instructive. We therefore wonder where the LC has arrived at this conclusion from. Current data suggests a rather pathetic 2.3% of the countries private hire fleet is wheelchair accessible.⁷⁰

Indeed there is evidence of the widespread overcharging of disabled customers by private hire operators⁷¹. The previous end note (70) mentions a case from Keighley, there is similar evidence from Wycombe⁷², Belfast⁷³ & Newcastle⁷⁴ we would contend that this needs addressed by the LC.

We draw attention to 11.21 where it is stated;

The requirement for all taxis to be wheelchair accessible may not be entirely beneficial. Full accessibility may not be right for every area, depending on the needs of the local population. A requirement for all licensed taxis to be wheelchair accessible imposes a financial burden on the industry.

It would appear the above statement is the epiphany I stated in my foreword wasn’t going to happen, of course it isn’t, but it would appear the LC do recognize that there isn’t a ‘one size fits all’ approach across the country in respect of the ‘financial burden’ placed upon the Hackney Carriage trade.

Naturally the LC couldn't keep up with my much hoped for epiphany too long, as my hopes were dashed when 11.21 continued to state;

Anecdotal evidence gathered during our preliminary meetings with stakeholders suggests that, where such requirements are imposed, a number of taxi drivers transfer to the private hire vehicle trade. This in turn may be detrimental to the population at large as it may reduce availability.

The suggestion by the LC that this is anecdotal based on discussions is quite alarming, Philip R Oxley of Cranfield Centre for Logistics & Transportation was employed by the Department for Transport to study the implications of accessibility ⁷⁵ . The following was stated in his report;

Those areas where there is no mandatory order and no quantity limit are likely to be the most severely affected, with a substantial movement to private hire. Many of these areas are also ones in which the majority of taxi work comes via the telephone/radio circuit rather than off rank or on-street hail; again reasons why taxi operators may choose to go to private hire since they would lose little of their hackney work.

Our association views the omission of this widely known study as quite astonishing.

11.24 states;

Allowing private hire vehicle operators to sub-contract work could lead to more efficient provision of accessible vehicles. It would allow a firm which is unable to satisfy a booking to use one of its own vehicles to pass the work on to another firm. This could also provide a further incentive to private hire vehicle drivers to invest in accessible vehicles.

The thought occurs that a private hire company is already permitted to 'sub-contract' to providers in its own area.

However, if the LC are advocating what is known as 'sub subcontracting', a fraudulent and often complicated system whereby a contractor tenders for work, then sub contracts it to another party who in turn sub contracts it to another party at a fraction of the original price, then I wonder if the LC are aware of the potential for fraud and the danger to the public?

The taxi and private hire trade has lost millions of pounds in respect of these scams that have hit the industries in recent years. Fraser Eagle is an obvious but costly example⁷⁶ although there are numerous others out there if the LC actually bothered doing research.

In relation to local transport planning the LC stated at 11.51;

Many local transport authorities recognise the importance of the role of taxis and private hire vehicles in providing public transport services.

They then cite two instances of local authorities referring to taxis within their LTP's (Tyne and Wear & Plymouth). Obviously two is far better than one, but are two instances really numerous? This has echoes of a statement made by Philip Soderquest of Northumberland Council who described taxis and PHVs in front of the Commons Select Committee as "*a huge part of the local transport infrastructure*" in the county.⁷⁷

Taxis appear to have been mentioned in the Northumberland LTP 3 once.⁷⁸

It is however instructive to note, the two local authorities they cite (Tyne and Wear & Plymouth) are areas that actually regulate taxi numbers, they must therefore presumably pay a little more attention to the role of taxis, than those local authorities that issue licenses with wanton abandonment allowing market forces to dictate.

The LTP 2 for Cumbria had 3 mentions of the word taxi in a massive document and these were only in respect of Carlisle – none of the targets were actually implemented.⁷⁹

Consideration of Chapter 12 Technology

The L.C. dedicate chapter 12 of their document to the subject of technology, we are then forced to endure nine pages of facts of a dubious nature and of dubious significance, although 12.2 of the document does appear to acknowledge this when it states;

This chapter focuses on the many ways in which technology has impacted consumer engagement with taxi and private hire services. We recognise that, although premised on the use of horse-drawn carriages, taxi vehicle regulation has proved remarkably flexible and poses fewer problems. Paradoxically, the more recent private hire regulation has encountered greater difficulties, as it is premised on a particular model of pre-booking which has since been superseded by the widespread use of mobile phones and the internet.

In the view of our association this single paragraph answers the points raised in the following nine pages; taxi law is clear on the issue; how a customer books a taxi is of little significance; it is clearly more important that the person receiving to booking is correctly licensed and the driver dispatched is equally qualified.

The association is aware of the points made by some that existing legislation takes little account of modern technology. The Association is unconvinced that modern technology has had the impact suggested.

The fundamental principle of private hire licensing, as demonstrated in the case of *Shanks vs. North Tyneside Borough Council 2001*⁸⁰, is that the area where the telephone booking is received must be responsible for the licensing of Operator, Vehicle and Driver. – Our association cannot see the merit in attempting to change this very sensible licensing principle.

It has been suggested that topographical knowledge tests are no longer necessary due to satellite navigation. The association does not agree with this view. We believe in order to work any area as a hackney carriage it is essential to have a good working knowledge of that area – there have been numerous instances of this technology failing.

In respect of the above Manchester City Council recently met and expressed their concern at the number of drivers whom had become over reliant upon the technology. The council is to review its driver training and assessment policy⁸¹.

At 12.27 the following is stated;

Technology is increasingly useful in ensuring effective enforcement. It allows easier and instant identification of licensed vehicles and can give passengers the opportunity to check the licensing status of a vehicle. Using the Smartphone application "Am I Safe", passengers can input the vehicle registration in order to check whether it is licensed. A message can also be sent to a nominated person informing them that the passenger is taking the vehicle.

As a rather decent example of *not thinking things through properly* the LC appear to be happy to endorse the product called "Am I Safe". Sadly the LC position in respect of this falls down on two points;

Firstly the technology involves accessing a database that maybe subject to data protection laws.

Secondly, and rather more amusingly, if cross border activities are to be endorsed by the LC, it could transpire that a customer is sent a vehicle from an area which doesn't subscribe to this particular money making exercise, the passenger is then faced with a vehicle and driver unrecognized by the system.

The following is stated at 12.29;

*12.29 Lack of communication between agencies involved in enforcement presents a significant problem. Increased data-sharing between agencies such as licensing authorities, the police and the Vehicle and Operator Services Agency would lead to more effective enforcement and could provide an incentive to undertake more enforcement. This is currently hampered by those agents involved having different levels of access to records. Improved means of recording information may assist operators in fulfilling their record-keeping obligations. **That councils can prescribe record-keeping methods could potentially place restrictions on business models.***

The highlighted section above cites Local Government (Miscellaneous Provisions) Act 1976, s 58(2), sadly our association cannot see how section 58 of the 1976 act, which

pertains to the return of license or identification plates upon expiry, suspension or revocation is relevant. The citation of an incorrect section of one of the various acts is in a seemingly consistent line of misplaced citations within the LC document. In many respects, this negligence (or lack of attention) is similar to the comedy series “Red Dwarf”, where Arnold Rimmer regularly misquotes “space core directives”;

Rimmer: In which case we can remove him from duty as per Space Corps Directive 196156.

Kryten: 196156? Any officer caught sniffing the saddle of the exercise bicycle in the women's gym will be discharged without trial? Hmm. I'm sorry, sir, that doesn't quite get to the nub of the matter for me.

Consideration of Chapter 13 – Overview of provisional reform proposals

The two tier system of licensing was introduced to license a tier of drivers, vehicles and operators where previously this wasn't the case. It is clearly important the public are assured that every licensed vehicle is maintained and in good order, the driver is honest and operator is legitimate.

The association is convinced the current two tier system is perfectly workable, although we can foresee a possible need for a multifaceted second 'private hire' tier that encompasses the differing business models.

The association is aware of ideas mooted by others for a single tier form of licensing. We fail to understand the LC idea of "opt-in" licensing systems, as what the LC proposes would have the effect of a patchwork of differing regimes across the country, never mind the UK. Ironically the term 'patchwork' was used by Lord Airedale in a debate about the 1976 Act⁸².

One particular scheme appears to suggest a single tier consisting of three internal tiers. This is presumably based upon the Taxis Act (Northern Ireland) 2008⁸³.

The internal tiers can be described as a tier of wheelchair accessible vehicles permitted to 'rank' and 'ply for hire', another tier of saloon vehicles that are allowed to 'ply for hire' but not 'rank', with a final tier which comprises of 'executive' type vehicles which would be licensed but not permitted to either 'rank' or 'ply for hire'.

The association believes the above system of licensing does not create sufficient incentive to adequately invest in Wheelchair Accessible Vehicles and as such, these vehicles will become unviable.

The above system could also create a virtual monopoly situation in respect of the larger private hire companies, they are the ones ultimately coming into a 'single tier' licensing system from a very powerful position – as Darryl Biggar ⁸⁴wrote;

"Larger cab networks have more available vehicles and are likely to be able to offer short waiting times on average. At the same time, since customers are attracted to calling a network that offers the shorter

waiting times, the larger networks are likely to have more customers, thereby attracting more taxis to join their network.”

A key principle of law is that it must be workable to those enforcing it and clearly understandable, the association does not view the above suggestion as either.

The association feels there are a number of key areas that should be grasped as central core principles. The underpinning principle of any licensing system is obviously, and quite correctly the safety of the public.

This key principle should be determined by a local authority when assessing the applicants' fitness and propriety. We believe local authorities currently have everything available to ensure applicants are 'fit and proper', although we believe all applicants should satisfy the enhanced standard of CRB check.

It should however be considered that a private hire booking is a choice the public make upon calling a private hire operator. If a customer experiences difficulties with any operator, (perhaps through poor service performance), they can and do call another operator.

Invariably private hire operators must compete with both hackney carriages and other private hire operators; they usually do this on the basis of providing a better (or different) service or in terms of price – the consumer benefits from this.

The association believes a further core principle should be the recognition that private hire covers a multitude of different business models, whilst some private hire companies offer outwardly similar services to those offered by taxi companies, a good number of others do not.

As you will be aware, some private hire companies specialise purely in airport transfers, whereas others specialise in executive hire, some specialise in minibus operations and some specialise in novelty vehicles. All deal with the wider public and justifiably are checked by local authorities.

Fares charged by private hire companies invariably differ from those charged by hackney carriages. We believe this is to the benefit of the consumer.

The association believes all taxi fares should be set by a local authority, for the purposes of the protection of the public.

To permit a hackney carriage owner to charge whatever they feel would obviously create a situation where drivers were able to charge to excess during busy periods.

We then arrive at one of the most bizarre sections of the LC document;

“Our proposals as an opt-in one tier system”

13.13 states;

“Our preferred provisional proposals are premised on a reformed two-tier system. There are many common elements. Bottom-line safety would be the same (or equivalent) for both taxis and private hire vehicles. Local requirements for taxis, over and above the common safety features, would be optional. This means that if a licensing authority wished for a single class of vehicle to service its community this would be possible. It would be enough for it not to exercise its powers to impose additional local conditions on its taxis. The common, basic safety standard applicable nationally could apply to all vehicles in that locality.”

13.14 states;

“For example, a small rural authority might opt to only apply the national bottom-line standards for both taxis and private hire vehicles. No additional local regulation would apply to taxi drivers and vehicles. Such a local authority may or may not choose to regulate fares at all. If such a local authority chose to regulate taxi fares the only difference between taxis and private hire vehicles, apart from signage, would be the presence of a meter. Applicants for a licence could decide whether the limited rank and hailing work would justify seeking a taxi licence; or instead whether a private hire licence would make more sense.”

The above two comments are quite revealing, They make play on national standards which are not known, but appear to inadvertently suggest the national standards for vehicles will be minimal; after all if we are to have wedding and funeral vehicles included in a single tier of licensing we should be anticipating vehicles being licensed which are rather old.

It is quite remarkable that the LC is underpinning such faith in standards which haven't yet been decided.

Zoning

We must admit to confusion over the position of the Law Commission in respect of zoning.

It is stated at 15.39;

We propose the introduction of more flexible powers enabling licensing authorities to respond more easily to local needs. Such powers could allow authorities to create licensing zones, or remove them, within their area. For example, in large metropolitan areas it may be advantageous to be able to follow the London model and create central and outer zones. Such an approach could assist in tackling concerns over the “honeypot” effect of city centres which may leave suburban areas with insufficient provision.

Our association support the idea of a local authority having the ability to zone areas within its district. However, the LC position in respect of which makes little sense and is in many respects ludicrous.

The LC would like deregulation – whilst at the same time acknowledging some areas will not be served as there will be ‘honeypot’ areas within some districts. The presumption that some drivers will obtain licenses for areas that have a demand of sorts over and above an area which has perhaps an overabundance of taxis yet has guaranteed work doesn’t actually work in practice.

It was suggested in the Wirral Survey⁸⁵;

With regard to ranks, the representative commented that it may be beneficial for Wirral Borough Council to subsidise ranks in rural areas whilst the trade generate demand.

One of the main reasons Wirral deregulated taxi numbers in 2002; one of the reasons for this decision was a lack of service in the outer areas of the Borough. During this time taxi numbers almost doubled going from 148 to 289 taxis, surveys during 2003 & 2006 found a

small unmet demand in the outer areas, but the demand was so small it wasn't profitable for taxis to work these areas and still earn a profit.

The statement from Wirral regarding subsidies is quite revealing as to the disastrous state of affairs in this location - to ensure demand the taxi service may need public subsidy – not exactly the type of thinking that would emanate from the Chicago School – the point in being even a doubling in size of the taxi fleet cannot guarantee a service where there is no profit.

Durham is one obvious example of a lack of zoning where it has been reported that an extra 400 taxis are regularly plying for trade within the city⁸⁶ at the expense of the rest of the county.

Consideration of Chapter 14 – Reform of Definitions & Scope

London

It may please the LC to discover that we actually agree with London being included if new legislation is to be adopted – its exclusion from the 1976 act for whatever reason was obvious folly as a completely unlicensed tier of vehicles ran around the capital for the next 20 years without the checks and balances vehicles outside of the M25 were subject to.

What vehicles should be covered?

Having spent a not inconsiderable amount of time completely disagreeing with the LC, rather surprisingly we agree with the LC yet again, for the record that's two 'on the bounce'.

However, it is a matter of public safety that any vehicle '*whatever its form or construction*'⁸⁷ should be licensed. Again, we would be disappointing everyone if we didn't point towards the wording used in italics coming from 'archaic legislation'⁸⁸ dated from back in 1847. We do believe there should be certain exemptions in any new law and these will be explained in the forthcoming few paragraphs.

It is instructive to note the admission by the LC at 14.13;

Two key consequences flow from a broad definition of vehicle. Firstly, a greater range of standards would have to be applied. The expansive list of possible vehicles covered, including motorbikes, limousines, horse-drawn carriages and pedicabs, calls for different sets of safety requirements tailored to different vehicles. Secondly, the broad approach may be over-inclusive. Exemptions may be needed. The default inclusion of all vehicles carrying passengers for hire can act as a barrier to entry in respect of novel vehicles which may not fall within a pre-established category with defined standards. Standards of fitness would have to be agreed in respect of such vehicles before they would be allowed to operate.

The acknowledgement of "***a broad definition of vehicles***" is an unmistakable fact the LC have recognised the differing business models that should come under the umbrella of a private hire licensing function. It is however surprising that this acknowledgement does not extend towards to possibility of recognising that the differing business models would perhaps require a differing license with differing regulation.

14.18 states;

The considerable discrepancies between public service vehicle regulation compared with taxi and private hire services make it desirable to reduce the area of overlap in order to avoid “regime shopping” (where providers might select the licensing regime that appears least onerous rather than that which is most appropriate). We therefore propose to use the number of passenger seats as a way to mark as clear a border as possible between taxi and private hire regulation on the one hand; and public service regulation on the other.

Whilst we see merit in the LC suggestion, we should perhaps point out the LC speculation of providers passing over one licensing regime to another that appears “least onerous”.

We would be failing if we didn’t point out that this eventuality will in all probability still occur as the LC have a bizarre fascination in allowing cross border hiring – this coupled with differing local conditions for taxis, alongside fees that may be similar but subject to enforcement requirements – adds up to a furious ignorance of practicality.

Where driving is an ancillary part of the service

Points 14.26 & 14.27 are more or less a statement of fact – we concur with the DfT guidance.

Volunteers

14.28 states;

Volunteers would automatically be excluded by an “in the course of business” definition. Volunteers may be subject to registration under the Vetting and Barring Scheme under the auspices of the Independent Safeguarding Authority. Some services may also be provided under a community transport permit. The organisations that work with such volunteers are often best placed to address the concerns specific to their way of working.

As words go we tend to like the English language. The word ‘may’ is one obvious example; it sits alongside, ‘might’, as well as ‘possibly will’ and is equally at home beside ‘fingers

crossed' and 'with a little luck'. Sadly, our association tend to think, 'luck,' might', 'hopefully' (sorry missed that one) and suchlike are little vague in view of public safety.

14.29 continues to suggest volunteers should not be licensed – yet there is little qualification to the term 'volunteer' save to a passing reference to 'in the course of business carrying passengers' (as quoted from Public Passenger Vehicles Act 1981).

Our association sees this as a matter of risk. Whilst we are not particularly bothered if a person makes a profit, it is quite obvious a number of predators over the years have gained positions through trust⁸⁹. We feel that any regulatory regime needs to take this into account; it would be failing the public if it didn't. A consistent line of this association has been for inclusive licensing; we therefore believe volunteer drivers should be licensed, but not necessarily to the same standard as those who earn a living from the transport of passengers.

We were somewhat mystified by 14.30 as we were not aware of taxis and private hire vehicles being hired out on a cost only basis, the following is stated;

"In the context of taxi and private hire licensing this might be relevant to the owners of classic taxis who might occasionally hire them to the public; if done at an amateur level and only in order to maintain the vehicle, it may not amount to business use. Generally, such activities would not be caught by licensing requirements."

Sadly there is no citation or note attached to the above sentence, we therefore "ain't got a Scooby" what the LC are on about.

Carpooling

Our association has no particular view on carpooling – although we would envisage the excellent television show 'Criminal Minds'⁹⁰ will at some point dedicate an episode to serial killers and carpooling. As ideas go, the thought of allowing a complete stranger in my car is one that fills this writer with horror – I do suppose, in hindsight, that's a bizarre statement from a cab driver!

Club membership and access to private hire services

Whilst we have no view on car pooling save for the potential of serial killings – we view the position of private members clubs in a different light, whilst the clubs are pretty much a decent idea, particularly for female passengers who may feel vulnerable – we do believe the vehicles and drivers should be licensed. There is the same element of risk both in respect of the driver and vehicle.

Wedding and Funeral Hire

The LC appear to have an almost unnatural fixation with limousines, I avoid the temptation to suggest they are presumably their vehicle of choice, however, we find ourselves at a loss – at least in respect of wedding and funeral cars - as to why they are proposed to be included within new legislation, given the previous exemption.

The LC state at 3.62 & 3.63;

Weddings and funerals

3.62 Vehicles used wholly or mainly in connection for funerals are exempt from private hire licensing, as are vehicles whilst they are used in connection with a wedding. That the exemption is wider for funeral vehicles than for wedding vehicles appears to reflect the traditional usage of these types of vehicles.

3.63 This is a potential loophole in the licensing regime. Companies which provide limousines for hire for a range of events, including weddings or funerals, will need to comply with the appropriate licensing regime. However companies which only provide vehicles for weddings or funerals and not for other events do not need to be licensed. There is also some debate as to the extent of the meaning of “being used in connection with a wedding”. For example where it is customary for wedding celebrations to last for several days, should the exemption apply for the extended period, or just the wedding day itself?

We find the rationale explained in 3.63 rather odd. We are similarly confused with the statement “*There is also some debate as to the extent of the meaning of “being used in connection with a wedding”*” as we have not seen or read any debate, we would therefore wish to see evidence (of this debate).

The law is actually quite simple in respect of weddings and funerals, as in, they are the only jobs covered that entitle exemption, the moment a vehicle is used outside of those purposes is the moment the vehicle should be licensed.

There are numerous cases of unlicensed limousines being prosecuted.

Rother District; Council prosecutes illegal limo operation⁹¹

TFL: Capital's rogue limousines targeted⁹²

Cambridge; Limousine business owner Sooty Edwards fined for having no licence⁹³

Dudley; Limo firm fined after being caught in council 'sting'⁹⁴

The reasons for wedding and funeral vehicles being forced to have license as normal 'minicabs' appears nonsensical – using the same type of mindset it would be obviously far safer to the public if we ensured every vehicle in the UK were licensed – as at some point they may be involved in carrying passengers.

The vagueness of the LC document again comes to the fore, we can see why wedding limousines and funeral cars may need some type of rudimentary licensing and vetting system; however we are not aware of any instances of inappropriate behaviour by drivers on weddings or funerals – this lack of evidence leads to our view that the status quo should be retained in respect of wedding and funeral cars being exempt.

Reinstating the contract exemption?

The contract exemption was originally repealed due to the abuse of those benefitting from the loophole. Subsequently when the law was tightened up a number of authorities (Dacorum being one example) initiated a system of 'contract only' private hire licenses. Unfortunately this system was subjected to abuse and a number of drivers used this route to obtain a licence whilst avoiding taking the full knowledge test. They did not restrict themselves to contract work but made themselves available to carry the general public. On reviewing the situation and taking into account the legislation at that time which provided an exemption for drivers and vehicles operating under long-term contract from holding a licence, the practice of granting 'contract only' licences was stopped.

There were numerous abuses of the 'contract exemption' including airport hiring's and suchlike, we cannot honestly understand the LC justification for such a silly idea.

Streets and private land

The association will be interested to read what proposals the LC intend with private land, it is however instructive the LC seemingly neglects to mention patronage of many transport hubs is invariably sold to the highest bidder. On the whole those responsible for the hubs are quite mercenary when it comes to accepting tenders – they don't particularly care who has exclusive rights, be they private hire or hackney carriage - in true capitalist tradition – the shareholders come first with the public a very distant second – price is the all important aspect of any bid. The effect is that fares are increased to the ultimate disadvantage of the passenger.

We find it quite galling the LC are so naive to accept fares at transport interchanges are subject to local regulation – this shows precious little research and leaves us to conclude this is an area the LC are not particularly bothered about.

The LC adulates the airport system at 14.57;

If passengers have a problem, the airport authority may be the first point of contact to make a complaint. We understand this was a key factor for Gatwick airport in moving to a single private hire contractor. This allows scope for the airport to prescribe detailed conditions on the level of service they expect.

The above adulation has seemingly little to do with reality. The local MP, Henry Smith, cited the lack of competition at Gatwick during January 2011⁹⁵.

In respect of airports, whilst we make passing reference to them above, the LC position appears to be somewhat duplicitous. They state the following;

It is important to consider how regulation can encourage competition and consumer choice. Funding information desks through a levy on the trades can be controversial. A requirement to monitor customer satisfaction according to agreed parameters could prove useful. Waiting times and facilities could be

rated, and benchmarking could be used to ensure that if satisfaction fell below agreed levels regulators might intervene.

The LC refusal to acknowledge unmet demand surveys in previous chapters, their apparent ignorance as to what they contain, simple things like public satisfaction, reports from other stakeholders, views of disabled groups, the level of service, rather surprisingly are cited at 14.59 as 'useful'. Indeed, they additionally suggest regulators 'might intervene' if service levels fall 'below agreed levels'. The duplicity is seemingly complete and we don't believe we need highlight this point further.

The LC then appear to throw in a bit of a 'curved ball' type question at 14 which is so off the wall it left us wondering if they had just thrown this question in as a source of amusement. Question 14 is so bizarre we don't really think its worthy of answer.

Our above suspicions appear to have been confirmed when at 14.69 the LC appear to have got a little bored with writing, and decided to do a little doodling instead. The doodle appears to be loosely based upon the face of South Park character 'Randy Marsh'⁹⁶.

Whilst 14.60 to 14.74 are useful, they would appear to be of little significance, there are an abundance of court cases covering the issues of illegal plying for hire. If local authorities are not aware by now, they never will be.

The LC state at 14.80;

Another key feature of taxis, to be contrasted with private hire vehicles, is that under current law they are not permitted to refuse jobs once the consumer has engaged them appropriately, either at a rank or as a result of hailing. As well as a legal requirement, this is a deeply-rooted custom, and effective (in combination with other measures) at combating discrimination. We propose to retain compellability in substantially the same form as under current law.

The above was more or less covered in paragraphs 3.22 & 3.23; the repetitive nature of the LC document does tend to mean we go over ground we have already walked upon.

The assertion of a taxi driver being compelled to accept a hire whilst either plying or standing isn't completely correct. Section 53 of the 1847 act permits a driver to refuse a fare if he has a 'reasonable excuse' the same section also states drivers are not compelled to take passengers beyond the 'prescribed distance'. We find it rather strange the LC mention the Divisional Court case of Hunt vs. Morgan⁹⁷ at 3.23, yet fail to cite it here.

14.82 to 14.85 relates to the leisure use of vehicles. Again we feel the word we must use in respect of the LC view is 'naivety', we cannot see the logic in allowing a loophole in legislation, an ambiguity that has been exploited in the past, the case of St Albans v Taylor, mentioned at 3.52 is one example.

14.86 & 14.87 do appear rather odd. The LC thoughts behind statutory guidance would tend to suggest they have little confidence in what they're proposing; statutory guidance would appear to be a 'get out of jail free card' just in case things go wrong. We have little idea who drafted the 1847 act, but considering that legislation remains in working order to this very day, we would urge the LC to dig out their Ouija Board and consult with them.

After a reasonably sensible start paragraphs 14.88 to 14.93, which refer to terminology and the use of the word taxi, went downhill with alarming speed. The dropping of the term 'Hackney Carriage' is in our view clearly sensible, the replacement of it with 'Taxi' is a stroke of genius, after all, the vehicle is a 'taxi' anyway.

Sadly 14.89 repeats the same error previously made in respect of private hire operators using the word 'Taxi', sadly the LC appear to be working to the old motto of if they say something for long enough it will come true, sadly it won't. As previously mentioned it is only the 1998 London Private Hire act that prevents London based operators from using that and similar words (save for the 1968 London Cab Act). There is no such prerequisite within the 1976 act, despite the LC insisting upon it.

At 14.90 it is stated; *"We suggest for consideration the idea that advertising for private hire services could include the word "taxi" or "cab" provided it was in combination with "pre-booked" or equivalent*

qualifying language to signal the limited way consumers could engage them". This suggestion contradicts the previous statement in 14.88 where it was stated; *"there are no compelling reasons to abandon the current division between taxi and private hire terminology"*, it would only serve to increase the confused perception among consumers that a private hire car is a taxi. The awareness of the difference between the two types of vehicles would most definitely not be helped by this idea and indeed the distinction between the two vehicles would be fudged.

14.92 states; *"On the other hand many consumers use the term taxi in respect of both sides of the trade"*. This is obviously a reason for education of the consumer rather than capitulation to his ignorance.

Issues arising from Chapter 15 - A REFORMED REGULATORY FRAMEWORK

As mentioned elsewhere in this paper, the LC have placed great faith in National Standards, yet will have virtually no input into what these standards will actually be.

As mentioned, to encompass all the business models covering private-hire and to include wedding and funeral vehicles, it can only be surmised that these standards will be of minimal proportions.

The LC envisage a system whereby standards for private hire will be set by the Secretary of State, however the contradictory and confusing nature of their document does raise question to this. 15.4 states;

*“Licensing is currently carried out by local authorities and Transport for London and we do not propose any change to this allocation of responsibility as part of our reforms. The cost of setting up an independent body to oversee licensing would not be a viable option for the foreseeable future. **Moreover, the nature of taxi and private hire services is such that it is ideally suited in many ways to local decision-making.** Although we will recommend that some nationally set standards may be appropriate, the delivery of licensing functions and decisions would remain firmly at a local level.”*

The sentence marked in bold in the above paragraph appears to display the contradictory nature of the LC document. The explicit acknowledgement that taxi and private hire services are “**ideally suited to local decision making**” quite simply does not equate to how the LC have concluded vast swathes of their document – by effectively taking away many of the powers of local authorities.

At 15.6 the LC state;

“We discuss below how licensing authorities might decide that higher standards are appropriate in their area in respect of taxis, but we suggest there should at least be a lowest common denominator applicable to both categories of services.”

The LC obsession in legitimising cross border activities appears to fall foul of what a local authority might anticipate as a correct standard for a taxi in their area which is over and above the national standards set out by the government. Quite simply an adjoining area may not regulate to the same standards, thus an owner could quite simply license himself there – only to return operating on a private hire circuit.

The same difficulties with enforcement apply – although they are presumably more difficult – as a licensing officer would presumably have to know the rules and regulations of surrounding boroughs.

15.6 states in its final sentence;

“The deregulatory effect is also visible in respect of taxis to the extent that additional local regulation would only be put in place pursuant to local decision-making.”

Again, the paradoxical nature of the LC document suggests local decision making – yet this local decision making doesn’t extend to granting a local authority the power to address the issues arising from deregulation.

15.8 states in its final sentence;

“A consumer that mistakes a licensed private hire vehicle for a taxi would at least not have to worry about strict safety issues, such as Criminal Record Bureau checks for drivers and the roadworthiness of the vehicle.”

The above is then quantified by the following footnote;

“This does not mean that customer confusion is harmless. Passengers travelling in private hire vehicles without pre-booking could lead to any number of problems like excessive fares; a driver getting lost; and unfair competition suffered by the legitimate trades. These are all serious issues but not as critical as safety considerations.”

As pointed out elsewhere in this paper, the LC have failed to cite a single local authority that does not already employ Criminal Record Bureau checks or rudimentary checks of vehicles, 15.8 is therefore mischievous suggesting national standards will cure any current problems. Indeed the footnote actually suggests '**a driver getting lost**', which when we consider local authorities will be unable to apply standards such as knowledge tests to private hire drivers under the LC plans - it raises the question as to whether or not the LC forgot about that?

Furthermore, the problems described by the LC will only be exacerbated by plans to capitulate to cross border hiring.

15.27 states; *"However, our provisional view is that licensing authorities should retain the discretion to impose such requirements provided that they do not fall below national standards"* .

The question of how can they possibly fall below national standards when the local standards are IN ADDITION to national standards does spring to mind.

15.29 states; *"this could potentially provide a useful model for limiting the scope of licensing authorities' discretion to set local standards."*

This is seemingly contradicting the statements in paragraphs 15.5, 15.6 and 15.10.

Issues arising from CHAPTER 19 - REFORMING ENFORCEMENT

Without wishing to be too controversial, it does sadly appear in many respects the LC are quite insane – nothing wrong with that – our association like this characteristic on many different levels – yet we cannot completely understand how or why the LC should consider it necessary to grant local authorities more power than they currently have.

It is clear that the LC are not aware that numerous LA's have granted their officers virtually limitless power in respect of delegated functions; these include the power to immediately suspend drivers (as granted to LA's under section 52 of the Road Safety Act 2006⁹⁸).

In a letter to LA's from the DfT the head of the DfT stated;

“It will be a matter for individual local licensing authorities to determine how they wish to make use of this new power.”

Whilst some local authorities have acted completely responsibly and consulted with the taxi and private hire trades in respect of how (and the occasions when) this new power will be implemented – others have not. Officers granted this unfettered power have immediately suspended drivers for such trivial offences such as over-ranking – one example being Sutton in Ashfield.

Paragraphs 19.4 to 19.6 raise some serious problems in respect of criminal offences in operating unlicensed vehicles, yet the question marked as 64 merely refers to Officers being permitted to stop licensed vehicles. We fail to see the point in highlighting the dangers to the public, without considering a solution.

Question 64 states; *Should authorised licensing officers have the power to stop licensed vehicles?*

We point the following out in respect of fees, wondering if it is right that a licensee in a honey-pot area should pay for the enforcement of vehicles licensed elsewhere. Indeed, the mooted idea of funding coming from a central pot to which all local authorities contribute would fail in respect of Carlisle where vehicles licensed in Scotland (and therefore outside of the scope of English & Welsh legislation) are often seen picking up passengers.

In respect of the above, we are aware of one company that has registered itself in Scotland, with Scottish licensed vehicles and operate at both Newcastle & Manchester Airports.

Are English license fees to pay for Scottish negligence?

Paragraphs 19.7 & 19.8 pertain to the offence of touting; we fail to understand the relevance of this section and indeed the question numbered 65;

“What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers.”

Question 66 states;

“Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules?”

As previously stated, we believe local authorities already have sufficient powers.

Fees

We find the lack of clarity in respect of fees from the LC rather depressing. It is obvious there are great misgivings about the current system. This was mentioned by Transport Secretary Norman Baker in front of the House of Commons transport select committee in respect of a case from Guildford⁹⁹ (and has subsequently come to light in Fenland¹⁰⁰).

The LC only refer to the 'Guildford Case' once in the document at 8.11, we find this quite staggering, as the fees raised from licensing invariably (and arguably illegally) cover the cost of enforcement.

The LC refers to fees at 8.6 suggesting (in echoes of the Berwick case) that licensees may be attracted by lower licensing fees). At 10.23 the LC state;

Moreover, the licensing authority does not receive any licensing fees from such out-of-area cars thus draining their resources which stem from their local trade.

The above is further acknowledged at 10.56, indeed whilst the LC state at 19.30;

"We recognise the importance of funding for effective administration and enforcement of taxi and private hire licensing."

They carry on to state in the same paragraph;

"However the above considerations suggest it would be both premature at this stage of the project, and beyond the scope of this consultation paper, to make specific recommendations in respect of licensing fees."

The LC allude to administration and enforcement costs being separate, yet surely any separation would lead to the same situation as we currently have, where the overall cost of licensing differs from area to area. If we consider the LC wish to legalise cross border

activities, therefore making the current situation worse, we can only imagine these local fees in 'Honey-pot' areas increasing.

To counteract the above (and as previously mentioned) the LC has mooted the idea of local authorities bidding for enforcement funding from a collected national pot of money. The mechanics of this haven't obviously been worked out. Presumably someone will have to decide if a local authority claim is reasonable, they will have to be paid, someone will presumably have to apply and they too will want paid. We envisage a whole new tier of both national and local government being paid to assess the demands of enforcement – the cost of which would be borne by the licensees.

To this end, it could be viewed as more red tape involving bureaucracy of an astonishing level.

Irrespective of the above, the fact remains that 'honey-pot' areas will remain after new legislation becomes active, fees and how enforcement will operate are crucial to any new law. The lack of clarity on this single issue is extremely worrying.

Cab related offences by Constabulary

The LC, to their shame, didn't bother to fully researching the number of cab related sexual assaults and rapes throughout England & Wales – they rather more simply relied upon information available via a 'Google' search. Despite this illogical approach, they stated the following within their impact assessment;

Offences against passengers most commonly include sexual offences, assault and theft. Taking sexual offences as an example, the estimated total cost of £38,359 (in 2011 prices) provides a measure of the economy-wide benefit of preventing sexual crimes. If 111 cases have been reported in London alone, which accounts for about 30 percent of all taxi services, nation-wide the figure must be closer to 400 reported cases.

Les Reid, a cab driver from Manchester, who obtained some of the information used by the LC originally, carried on with the research by submitting FOI's to every constabulary in England and Wales; this information was gathered over a 2 month period and states as follows;

Sexual Assaults and Rapes in Licensed Vehicles, 2011 – 2012

Constabulary	Offences	Number of Licensed Vehicles (2011)
Avon and Somerset Constabulary	100	4189
Bedfordshire Police	9	2340
Cambridgeshire Constabulary	2	2573
Cheshire Constabulary[3]	9	3095
City of London Police (not shown)	0	Same as Metropolitan Police area
Cleveland Police	38	2082
Cumbria Constabulary	1	1381
Derbyshire Constabulary	1	3146

Devon and Cornwall Police	10	4023
Dorset Police	ICO	1831
Durham Constabulary	2	1647
Essex Police	ICO	5212
Gloucestershire Constabulary	8	1372
Greater Manchester Police	109	11892
Hampshire Constabulary	ICO	5565
Hertfordshire Constabulary	9	3785
Humberside Police	8	3019
Kent Police	2	4231
Lancashire Constabulary[3]	11	5274
Leicestershire Constabulary	17	2546
Lincolnshire Police	2	1645
Merseyside Police	22	8919
Metropolitan Police	111	75733
Norfolk Constabulary	4	2062
Northamptonshire Police	1	1734
Northumbria Police	1	6480
North Yorkshire Police	3	2167
Nottinghamshire Police	15	3042
South Yorkshire Police	ICO	4297
Staffordshire Police[4]	ICO	3058
Suffolk Constabulary	2	1715
Surrey Police	3	3844

Sussex Police	3	5106
Thames Valley Police	ICO	7805
Warwickshire Police	0	1093
West Mercia Police[4]	14	2697
West Midlands Police	58	12344
West Yorkshire Police		11645
Wiltshire Police	5	1847
Dyfed-Powys Police (Heddlu Dyfed Powys)	5	1213
Gwent Police (Heddlu Gwent)	13	1654
North Wales Police (Heddlu Gogledd Cymru)	6	1900
South Wales Police (Heddlu De Cymru)	13	4743
Total	517	235946

Source: Mr. Les Reid, Freedom of Information requests July 2012

Figures as of Sunday 9th September 2012

'ICO' denotes the Constabulary has been reported to the Information Commissioner for refusal to provide information.

Responses have been received from 85% of Police Authorities, reporting some 517 attacks, 15% are yet to respond.

Using the L.C. theme of expanding, our expanded figure now becomes; $517 \times 1.15 = 595$

According to the Stern review¹ (conducted by Baroness Stern), 38% of sex attacks go unreported. We know from the review that 38% of sex assaults go unreported, but 90% of rapes go unreported.

Taking the lower figure 38, indicates our 595 was 62% of the actual offences.

$595 \div 62 \times 100 = 960$ sex attacks (figure rounded up)

960 is not a fanciful figure, this is a realistic estimate, using sound mathematics. The attack figures are over double the Law Commission estimate. Manchester police themselves state sex attacks in the City are up 11% year on year². Our research shows Manchester Cab related attack for 2010 = 98. Manchester cab attacks for 2011= 109 an increase of 10.1%, supporting the GMP statement to the press.

The Law Commission states the following in their impact assessment;

Offences against passengers most commonly include sexual offences, assault and theft. Taking sexual offences as an example, the estimated total cost of £38,359 (in 2011 prices) provides a measure of the economy-wide benefit of preventing sexual crimes.

The Stern report states;

Each adult rape is estimated to cost over £96,000 in its emotional and physical impact on the victims, lost economic output due to convalescence, treatment costs to health services and costs incurred in the criminal justice system.

Quite how we can have a £57,000 difference in the estimated costs is another concern.

¹ <http://www.homeoffice.gov.uk/publications/crime/call-end-violence-women-girls/government-stern-review?view=Binary>

² http://menmedia.co.uk/manchestereveningnews/news/s/1489504_sex-attacks-soar-by-11-per-cent-in-manchester-city-centre

Ranking Issues

The LC had a somewhat dismissive attitude to the issues surrounding taxi ranks; they neglected to mention this highly important issue. The obvious point is that the taxi trade in the majority of the country is very rarely hired by customers by way of street hails; the majority of the work is therefore attained via taxi ranks or radio circuits.

The LC attitude towards ranks was highlighted in an email to the Chairman of the South Sefton Taxi Association (names omitted);

*****,

Ranks or stands were something we gave a great deal of thought to in preparing the consultation paper, but ultimately we felt that they should not be included. This is because there is very little different law reform could make - the current problems stem from issues concerning resource allocation, communication between different agencies and competition for road space. The Law Commission has been tasked with proposing a new legal framework, rather than looking at the specific content of this framework, and it would not be for us to dictate how local authorities should use their powers and resources. We appreciate that this is a significant issue, and that our response is no doubt disappointing to you, but unfortunately it is not one which we felt it would be appropriate for us to tackle.

I hope this answers your question.

It is very noticeable the LC is aware of the difficulties with competition for road space between agencies, however, irrespective of the LC view, the only area where a taxi can stand for hire is a taxi rank. It is equally obvious that issuing additional licenses without creating additional space for them to stand for hire is patently ridiculous.

In respect of space for taxis the book by "Button" states at 8.154¹⁰¹;

“Realistically, it must always be expected that some vehicles will be unable to rank at any given time and they will either be plying for hire, undertaking hire or simply not working at that particular time.”

If Mr. Button, who is a Law Commission consultant, is to be believed, it would, from his line of thinking create a need for additional ranking space upon deregulation. The ratio, given the rationale would be one space for every 3 to 4 vehicles.

The following has been obtained from DFT statistics recently released, the authorities selected have deregulated and in some cases re-regulated, the table indicates the additional ranking required (but in no case attained) for additional taxi stands;

Authority	2005 taxis	2011 taxis	Difference	Button method	2005 Spaces	2012 Spaces	Difference
Sheffield	547	857	+310	103	150	270	+120
Cardiff	481	957	+476	158	56	78	+22
Watford	73	303	+230	76	53	57	+4
Denbighshire	109	255	+146	48	60	75	+15
Chelmsford	102	169	+67	22			
Milton Keynes	120	207	+87	29	59	71	+11
Bristol	650	796	+146	48		170	
Wolverhampton	92	160	+68	22			
North East Lincs	121	235	+114	38		80 (12)	
Chesterfield	103	177	+70	23			
Southend	227	276	+49	16			

It is reasonably obvious to anyone, but apparently not within the grasp of the LC, that any new law should have some type of mechanism for taxi ranks – ideally it should also have some type of calculation towards the number of rank spaces reasonably required within a district.

Looking at the figures themselves, from the responses received from local authorities it is obvious in all cases (with the exception of NE Lincolnshire) no local authority has any correlation between rank spaces and the number of vehicles they license as taxis.

Again, these statistics were easily available for the LC to consider; indeed, they could have (although they didn't) asked each local authority how many additional ranking spaces they've allocated since a certain date. The fact the LC have neglected this highly important aspect of the taxi business should be quite illuminating – but sadly – the doctrinal approach suggests it actually isn't any surprise. It's just purely neglect and shoddiness – neglect and shoddiness costing the tax payer £375,000.

Signage

We believe the following extract from Hansard in the House of Lords debate in respect of the 1976 act is often one that has been overlooked by Local Authorities and indeed taxi associations;

Lord LEATHERLAND

Let us assume that I have hired a car and have taken some of my friends to a banquet. Do I, when I roll up in the Rolls-Royce at the Mansion House or Buckingham Palace, want to see a notice across the roof of my Rolls-Royce saying: " Bloggs and Company, Car-Hirers and Funeral Directors "? If one hires a private car one wants to have the appearance of a private car. Then the noble Lord referred to the time when the banquet had finished and the chauffeurs were trying to trace the people who had hired the cars. On such formal occasions where I have been present somebody has called out, " Lord Leatherland's car ", and my car has duly appeared. Surely, at a well regulated function the hirer of the car who wanted his car to be brought and made available to him would notify the porter to that effect; the porter would then send his chain of communication into action and the car would roll up. I hardly think it is worth while destroying and undermining the dignity of the private car which we would hire by having a trade notice put either on the side of the vehicle or on its roof.

Lord AIREDALE

It all depends on there being a porter available. Some of the banquets to which I go—perhaps they are not very smart—do not always have a porter. There are two matters which the noble Lord, Lord Leatherland, did not appreciate; I could not have made them clear when I was speaking. I was not talking about people who hired cars to go to banquets; I was talking about several people who emerged from a banquet at the same time, and who at the same moment wanted to be met by cars which they had ordered to pick them up. The noble Lord, if he reads the proviso in this Amendment, will see that it says that the operator should be permitted to display a sign if he wants to do so. If he is going to Buckingham Palace and the customer says, " I would rather not have a vulgar sign on the car driving into the forecourt of Buckingham Palace " then the operator does not have to have the sign on the car on that particular occasion.

We believe Lord Leatherhead and Lord Airedale during July 1976 actually demonstrate in this exchange a number of things in respect of Private Hire. Invariably it's the customer choice aspect, some customers want discretion, some customers want executive vehicles, some customers want a cheap service.

Would it end in Tiers?

We can understand the above mentioned view.

The concept the LC are trying to address in many respects is difficult. The very nature of private hire, in particularly the LC inclusion of wedding and funeral vehicles, basically ensures that PH cover minicabs, executive hire, wedding hire, funeral hire, novelty vehicles, minibus hire, airport specialists and so on.

Where it is unreasonable to perhaps expect a funeral business to have vehicles where a driver must sit a local knowledge test, it is not so unreasonable to expect that standard from the driver of a minicab, particularly if a local authority is in receipt of complaints.

A wedding hire company may have a fleet of vintage vehicles; it is neither practical nor reasonable to expect them to have the same emission standards as minicabs, vehicles that will undoubtedly be hired more times on a single day, than a wedding car is hired in a month.

Given the differences between the various models of private hire we believe it should be considered that differing types of private hire license are established.

End notes

¹ http://lawcommission.justice.gov.uk/docs/lc330_eleventh_programme.pdf (pg 20 para. 2.73)

² <http://www.legalfutures.co.uk/latest-news/sra-scrap-minimum-salary-for-trainees>

³ <http://www.bbc.co.uk/news/uk-15187154>

⁴ <http://lawcommission.justice.gov.uk/consultations/1804.htm>

⁵ <http://www.prweb.com/releases/prweb2012/7/prweb9698322.htm>

⁶ Pg 19 para. 2.32, pg 20 para. 2.33, pg 158 para. 13.5

⁷ Advisory group document; Nov 2011, page 10

⁸ https://www.alliance-leicestercommercialbank.co.uk/bizguides/full/icecream/parkes-legal_matters.asp

⁹ <http://www.guardian.co.uk/business/2012/jun/21/markets-fall-gloomy-us-forecast>

¹⁰ <http://www.nebusiness.co.uk/business-news/latest-business-news/2012/07/19/north-east-deals-market-is-buoyant-but-will-activity-continue-51140-31423132/>

¹¹ <http://www.etcproceedings.org/paper/the-economics-of-taxi-industry-regulation>

¹² <http://www.etcproceedings.org/paper/ten-years-of-taxi-deregulation-in-the-netherlands-the-case-for-re-regulation-a>

¹³ http://www.national-taxi-association.co.uk/?page_id=3907

¹⁴ <http://www.chomsky.info/articles/199805--.htm>

¹⁵ <http://www.irishtimes.com/newspaper/breaking/2010/1124/breaking24.html>

¹⁶ <http://www.scribd.com/doc/8576135/Driving-Poor-Taxi-Drivers-and-the-Regulation-of-the-Taxi-Industry-in-Los-Angeles->

¹⁷ http://www.national-taxi-association.co.uk/?page_id=3924

¹⁸ <http://www.seanbarrett.ie/>

¹⁹ http://www.ofc.gov.uk/news-and-updates/press/2002/pn_50-02

²⁰ <http://www.publications.parliament.uk/pa/cm200304/cmselect/cmtran/251/251.pdf>

²¹ http://www.ofc.gov.uk/news-and-updates/press/2004/ofc_response_to_transport

²² <http://www.publications.parliament.uk/pa/cm200304/cmselect/cmtran/418/41803.htm>

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- 34 <http://oft.gov.uk/news-and-updates/press/2008/131-08>
- 35 Wealth of Nations, Adam Smith, page 111
- 36 https://www.alliance-leicestercommercialbank.co.uk/bizguides/full/minicab/parkes-what_to_charge.asp
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Chapter 13 – Overview of Provisional Reform Proposals

Provisional Proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks and private hire vehicles which can only accept pre-booked fares (Page 160).

Answer:

We agree with this proposal; our association believe future law should distinguish between taxis and private hire.

Chapter 14 – Reform of Definitions and Scope

Provisional Proposal 2

London should be included, with appropriate modifications, within the scope of reform (Page 162).

Answer:

Our association believe there is a case for London being treated different to the rest of the country.

Provisional Proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver (Page 164).

Answer:

The 1847 act is reasonably clear in respect of this provisional proposal; every wheeled carriage; We see little point in removing ourselves from this sensible piece of 160 year old legislation.

Question 4

Would there be, and if so what, advantages to restricting licensing to motor vehicles that require a driving licence? (Page 164)

Answer:

The Association believe that the licensing is not entirely in relation to the vehicle but also its drivers and, thus, the general public, must be protected. They believe that the concept of carrying passengers in the course of a business is the right criterion.

Provisional Proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles and taxi and private hire vehicles should only cover vehicles that are adapted to seat 8 or fewer passengers (Page 165).

Answer:

The Association believes that it is right to exclude public service vehicles from the definition. These vehicles are intrinsically different in their specification and function.

The existing licensing regime bringing only vehicles seating up to 8 people within it appears to be a sensible one. There has to be a cut off point somewhere as a bus is simply not the same vehicle as a motor car. There are obviously difficulties in looking at e.g. stretched limousines which might have 8 or more seats.

Provisional Proposal 6

References to stage coaches charging separate fares should no longer feature as an exclusion from the definition of taxis (Page 166)

Answer:

The Association believes that this should be abolished. Both taxis and private hire vehicles should be entitled to charge separate fares. The experience that the Association has is that the sort of arrangements that were envisaged by the 1985 Transport Act have not proven very successful either operationally or indeed with the public.

Provisional Proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency (Page 167)

Answer:

We Believe the law is reasonably simple, once a vehicle has more than the prescribed number of passenger seats it can no longer be either a taxi or private hire vehicle – in these cases the vehicle should be under the remit of the Traffic Commissioners & VOSA.

Provisional Proposal 8

The concept of “in the course of business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service (Page 168)

Answer:

We cannot see the logic of excluding ‘volunteer drivers’, we would appreciate a definition of the word ‘genuine’ in respect of the proposal.

Question 9

How, if at all, should the regulation of taxis and private hire deal with: -

- (a) Carpooling; and
- (b) Members Clubs? (Page 170)

Answer:

These are matters with which the Association has little involvement but, they do believe that regulation of carpooling would appear unnecessary.

If there was no financial advantage then member’s clubs might also escape regulation although, once again, it is apprehended that the members of clubs should be no less entitled to be conveyed in safety than anyone else.

Provisional Proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes (Page 171).

Answer:

We do not believe the Ministers should be setting standards for localised issues such as private hire and taxis. We believe locals are best placed to determine standards.

Provisional Proposal 11

Weddings and funerals should no longer be expressly excluded from private hire licensing through primary legislation (Page 172).

Answer:

We believe the law at present is perfectly clear on the issue – and once either a wedding or funeral car steps outside the confines of current legislation, they would need to be licensed.

Question 12

Would there be merits in reintroducing the contract exemption by means of the Secretary of State and Welsh Ministers’ exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse? (Page 174)

Answer:

We answer this question in our imaginatively titled section “Reinstating the contract exemption?”

Provisional Proposal 13

Regulation of the way taxis and private hire vehicles can engage with the public should not be limited to “streets” (Page 175).

Answer:

We believe there should be a definition of ‘streets’ which may include them in respect of public access.

Provisional Proposal 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers or to the closest taxi rank? (Page 177)

Answer:

Our association believe all transport interchanges should be free of concessionary arrangements for taxis.

Provisional Proposal 15

The defining feature of taxis, the concept of “plying for hire” should be placed on a statutory footing and include: -

- (a) References to ranking and hailing;
- (b) A non-exhaustive of list of factors indicating plying for hire; and
- (c) Appropriate accommodation of the legitimate activities of private hire vehicles (Page 181).

Answer:

The Association agree with this proposal.

Provisional Proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services (Page 181)

Answer:

Our association agree with this proposal and agree with the rationale outlined in 14.75.

Provisional Proposal 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”? (Page 182)

Answer:

Our association agree with the first two sentences outlined in 14.79.

Provisional Proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained (Page 182).

Answer:

The Association believes that the concept of compellability should be retained. It is part of the service that is offered. However, they do believe that it is necessary to retain safeguards of the type that are presently found in Section 53 of the Town Police Clauses Act 1847 which enables a driver to refuse a fare if there is a reasonable excuse.

Provisional Proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked (Page 183).

Answer:

The Association are in agreement with this proposition.

Provisional Proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would, however, be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved (Page 184).

Answer:

Our association believe that allowing non-licensed driver to driver licensed vehicles makes for a potential loophole in legislation, we oppose this proposal.

Provisional Proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements (Page 185).

Answer:

We believe local authorities are best placed to decide taxi and private hire arrangements for their areas.

Provisional Proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “Hackney Carriages” should be abandoned (Page 185).

Answer:

The Association agree with this proposal.

Question 23

Should private hire vehicles be able to use terms should as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion? (Page 186)

Answer:

Private hire should be expressly forbidden from using the terms mentioned in the question.

Chapter 15 – A Reformed Regulatory Framework

Provisional Proposal 24

Taxi and private hire services should each be subject to national safety requirements (Page 188).

Answer:

We disagree with National Standards as we believe locals are best placed to decide – sadly we can only guess as to what the national standards would be – we therefore cannot comment beyond what we have already written.

Provisional Proposal 25

National safety standards, as applied to taxi services, should only be minimum standards (Page 189).

Answer:

We disagree with National Standards as we believe locals are best placed to decide – sadly we can only guess as to what the national standards would be – we therefore cannot comment beyond what we have already written.

Provisional Proposal 26

National safety standards, as applied to private hire vehicles, should be mandatory standards (Page 189).

Answer:

We disagree with National Standards as we believe locals are best placed to decide – sadly we can only guess as to what the national standards would be – we therefore cannot comment beyond what we have already written.

Provisional Proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no longer apply to private hire drivers (Page 190).

Answer:

We disagree with National Standards as we believe locals are best placed to decide – sadly we can only guess as to what the national standards would be – we therefore cannot comment beyond what we have already written.

Question 28

Should local standard-setting of private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? (Page 190)

Answer:

The Association have long sought to prevent the blurring of the distinction between a taxi which has a function to fulfil and a private hire vehicle whose use is different. However, they believe that so far as possible similar standards should apply.

It has always been their policy to seek to avoid roof signs on private hire vehicles which have simply served to confuse. They do not believe that this is a local issue. The need to identify one operation as against another prevails anywhere in the country.

Standards should be locally set.

Provisional Proposal 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? (Page 191)

Answer:

We disagree with National Standards as we believe locals are best placed to decide – sadly we can only guess as to what the national standards would be – we therefore cannot comment beyond what we have already written.

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (Page 192)

Answer:

We disagree with National Standards as we believe locals are best placed to decide – sadly we can only guess as to what the national standards would be – we therefore cannot comment beyond what we have already written.

Provisional Proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should only cover conditions relating to safety. (Page 192)

Answer:

Locals are best placed to decide it is difficult to agree with a policy that removes that right.

Provisional Proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. (Page 193)

Answer:

Locals are best placed to decide it is difficult to agree with a policy that removes that right.

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? (Page 193)

Answer:

A difficult question to answer if our policy is that locals are best placed.

Provisional Proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. (Page 193)

Answer:

Locals should be permitted to set standards for all vehicles they license.

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? (Page 194)

Answer:

We do not believe standards should be set nationally.

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? (Page 194)

Answer:

Because the Association believes that local authorities are best placed to deal with local conditions etc, we would support licensing authorities retaining the power to impose individual conditions subject, of course, to appropriate safeguards.

We believe byelaws should be retained in respect of Hackney Carriage drivers.

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? (Page 195)

Answer:

We believe local authorities are best placed to decide such matters.

Provisional Proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. (Page 196)

Answer:

We believe local authorities are best placed to decide such matters.

Provisional Proposal 39

Licensing authorities should have the option to create or remove taxi zones within their area. (Page 196)

Answer:

We believe local authorities are best placed to decide such matters.

Question 40

Would it be useful for licensing officers to have the power to issue peak time licences which may only be used at certain times of the day as prescribed by the licensing authority? (Page 197)

Answer:

We believe peak time licenses will destroy the taxi trade.

Provisional Proposal 41

Private hire operates should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority (Page 198)

Answer:

We have addressed this issue at length in our response (the pleasure was all ours); we firmly believe all 3 licenses (PH Driver, PH Vehicle & PH Operator) should match.

Provisional Proposal 42

We do not propose to introduce a “return to area” requirement in respect of out of the area drop offs. (Page 199)

Answer:

We sadly think this proposal is rather mad, we therefore disagree.

Provisional Proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares. (Page 200)

Answer:

We agree for the reasons set out in our paper.

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (Page 200)

Answer:

Current law is quite clear on this issue, a taxi can only charge the council set fare for hiring's within its prescribed distance – we believe this is a sensible provision.

Chapter 16 – Reform of Driver, Vehicle and Operator Licensing

Question 45

Should national driver safety standards such as the requirement to be a “fit and proper person” be either: -

-
- (a) Set out in primary legislation; or
 - (b) Included with the Secretary of State and Welsh Ministers general powers to set national safety conditions? (Page 203)

Answer:

We believe the definition of fit and proper should be left to local authorities as this permits local authority discretion.

Provisional Proposal 46

Vehicle owners should not be subject to “fit and proper” tests though the criteria applied would relate solely to the vehicle itself. (Page 204)

Answer:

The Association believes that these tests are essential in the interest of protecting the public.

Question 47

Should national vehicle safety standards be either: -

- (a) Set out in primary legislation: or
- (b) Included within the Secretary of State and Welsh Ministers’ general power to set national safety conditions? (Page 205)

Answer:

Our association believe this is a matter best left for local authorities

Provisional Proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. (Page 207)

Answer:

The Association support this.

Question 49

Should operator licensing be extended to cover taxi radio circuits and, if so, on what basis?
(Page 208)

Answer:

The Association believe there are sound reasons for this type of extension; the basis is exactly the same as to why PH circuits need licensed – the collation of personal data – and a potential loophole in deregulated areas where fleets have moved from predominantly PH to HC.

Provisional Proposal 50

The definition of operators should not be extended in order to include intermediaries.
(Page 209)

Answer:

The Association disagree with this proposition subject to further investigation; the description of an intermediary is potentially quite expansive. Would for example a barmaid obtaining a taxi (or PH) be described in the same manner as perhaps a hotel concierge whom may be paid by a certain company to contact them when transport is required by hotel guests. – (given what we have written please take this as a compliment.....good question!)

Question 51

Should “fit and proper” criteria in respect of operators be retained? (Page 210)

Answer:

For reasons given in response to the previous enquiries the Association believes that it is essential that these criteria are retained.

Provisional Proposal 52

Operators should be expressly permitted to sub-contract services. (Page 210)

Answer:

We believe operators should not be permitted to sub contract work across district borders.

Question 53

Where are taxi driver takes a pre-booking directly, should record keeping requirements apply? (Page 210)

Answer:

A taxi driver should not be obliged to keep records; the nature of the job would make this impossible.

Chapter 17 – Reforming Quantity Controls

Provisional Proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers (Page 213)

Answer:

Where the LC use the word ‘restrict’ we would say ‘control’. A local authority should have the power to determine how many taxis can operate within their area.

Question 55

What problems, (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? (Page 213)

Answer:

Increases in the suicide rate, illnesses, divorce rates, domestic violence, and bankruptcies. – All evidence available via the taxi hardship panel from the Republic of Ireland.

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time if quantity restrictions are removed? (Page 215)

Answer:

We don't believe quantity 'controls' should be removed for some of the reasons stated in question 55. We additionally point out the rationale to the question is one describing potential problems; we therefore wonder why this is being pursued.

Chapter 18 – Taxi and Private Hire Reform and Equality

Question 57

Should there be a separate licence category for wheelchair accessible vehicles? This could involve: -

- (1) A duty on the licensee to give priority to disabled passengers; and
- (2) A duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. (Page 217)

Answer:

We believe locals are best placed to determine the taxi requirements of their area, we agree that local authorities should have a duty to make adequate provision of taxi ranks. (Yes we realise we answered that a little bit wrongly, but you should have evidence of a pitiful number of rank spaces across the country).

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? (Page 217)

Answer:

Local authorities already have this discretion and there are numerous local authorities that offer lower license fees for accessible vehicles.

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles and catering for the different needs of disabled passengers? (Page 217)

Answer:

We find this question quite amazing, the law commission state in their document in respect of private hire that they believe it works perfectly well, yet only 2.3% of the PH fleet are accessible.

It needs to be pointed out that numerous PH firms have been reported for charging more for the wheelchair bound than the able bodied; especially given the evidence.

Provisional Proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. (Page 218)

Answer:

There are various members of the Association whose local authorities have policies requiring vehicles to be wheelchair accessible. The Association do not support approaching the matter in a “blanket” fashion.

The Association sees little point in introducing national quotas especially as circumstances will vary from one area to another. This is, once again, a matter, if it is to be dealt with at all, that should be dealt with by local authorities.

Provisional Proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. (Page 219)

Answer

We believe locals are best placed to decide.

Provisional Proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. (Page 219)

Answer:

We believe locals are best placed to decide on such matters.

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? (Page 220)

Answer:

We sympathise with the LC in respect of this question, the answer is extremely difficult. Disability covers a multitude of ailments – unless the passenger were wheelchair bound it would be difficult for a driver to identify a passenger with a disability.

We cannot suggest a solution as we do not have one – however in our experience the majority of wheelchair bound passengers are a lot better at arranging taxi services than their able bodied counterparts.

Chapter 19 – Reforming Enforcement

Question 64

Should authorised licensing officers have the power to stop licensed vehicles? (Page 222)

Answer:

The Association do not favour this.

Question 65

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”. (Page 223)

Answer:

Those who perpetrate these offences well know that they are doing so and education really is not a viable aspect.

The only way to deal with these matters is through enforcement. More licensing officers need to become involved to apprehend those who are involved in touting. There are public order issues because if drivers are seen touting by other drivers who are licensed it can very often lead to violence.

The other way to deal with this is through sentencing but, magistrates obviously have guidelines handed down to them from above and it is thought that there will be need for legislation perhaps by way of Statutory Instrument to interfere with any present scales or guidelines.

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? (Page 223)

Answer:

The correct approach is surely properly to deal with the driver – firing squad should suffice.

Question 67

Should licensing authorities make greater use of fixed penalty schemes and, if so, how? (Page 225)

Answer:

We do not support fixed penalty schemes; legislation where a driver maybe fined is already available in both the 1847 & 1976 Acts – and much underused.

Provisional Proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. (Page 225)

Answer:

We do not support this proposal; licensing officers would have to know the regulations and rules of many local authorities due to the LC position on cross border – we would believe professional courtesy across district borders by local authorities would largely solve this problem.

Question 69

Should cross-border enforcement powers extend to the suspension and revocation of licences? If so, what would be the best way of achieving this? (Page 226)

Answer:

We do not support this proposal; licensing officers would have to know the regulations and rules of many local authorities due to the LC position on cross border – we would believe professional courtesy across district borders by local authorities would largely solve this problem.

Chapter 20 – Reform of Hearings and Appeals

Provisional Proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder or the relevant licence. (Page 230)

Answer:

The Association believe that the present arrangements are entirely adequate. Their view, on balance, is that a “person aggrieved” should be empowered to appeal. The reason for that is that such an appeal is possible by way of judicial review but the cost of such an appeal is utterly prohibitive.

Provisional Proposal 71

The first stage in the appeal process throughout England and Wales in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. (Page 231)

Answer:

We agree with this proposal (which already occurs in many areas).

Provisional Proposal 72

Appeals should continue to be heard in the Magistrates Court. (Page 232)

Answer:

The Association agree with this proposal.

Question 73

Should there be an onward right of appeal to the Crown Court? (Page 233)

Answer:

The Association support the existing right of appeal to the Crown Court.

Dated this 9th day of September 2012

WJ Casey

I write further to your consultation paper and request for responses regarding the above.

Established in 1962, Mantax Radio Taxis is Manchester's leading booking service for licensed hackney taxis. In addition to public bookings our corporate clients include many of the country's leading financial, legal and media institutions as well as the public sector. We also supply services to users with special needs, for which there is increasing demand.

The focus of our Company is the delivery of a high standard, cost effective service to our clients. This has resulted in the company attracting more customers and, therefore, more drivers. As a result of this growth and in our drive for continual improvement, we are now firmly established in new, state of the art call centre and administrative offices.

Mantax is actively involved in trade issues and sits on the Manchester Cab Committee and the Manchester City Council trade liaison group.

Today, with a fleet of over 260 taxis, Mantax is well placed to continue to provide a high quality, cost effective service to our existing and future customers. Unfortunately we are hampered in doing so due to two major concerns.

1. Regulation of License Numbers & Quality of Fleet

As indicated above, we strive to offer a high quality product to our customers, who include many professional clients. This requires our drivers to generate sufficient income both to make a living for themselves and their families and to reinvest on a regular basis in new, high-quality vehicles.

This quest is challenging enough in present economic circumstances. However the task for our member drivers is made more difficult due to recent uncertainty regarding the possibility of a de-restriction of hackney license availability. I have myself seen in other areas of the country how such a change can rapidly bring about a 'race to the bottom', with incoming drivers introducing older, poorer quality vehicles while diluting the ability of others to maintain current standards.

In 2009 as the operator of a Birmingham Hackney Radio circuit, I was involved in a campaign to reintroduce a numbers limit on Hackneys in the City. Since deregulation in the mid nineties, the Birmingham Taxi trade had progressively deteriorated suffering from all the above issues to the point where the Hackney Trade was becoming unsustainable.

Ironically whilst a study of the recent history of the Birmingham Taxi trade provides a graphic illustration of the very worst effects of deregulation, in the same timeframe (since the mid nineties) Manchester represents the best example of controlled deregulation, with its policy of releasing Hackney Licenses to match demand.

Comparing these two starkly different models was one of the factors that helped us to convince Birmingham City Council to adopt a similar approach to Manchester and release Hackney licenses only if unmet demand is established.

In Manchester all our drivers require now is a degree of stability in order to justify the very substantial cost of purchasing a new cab every few years, as many currently do. We also have genuine concerns as to how any more cabs would be able to find space on the city's ranks, since there is already problematic, at current fleet numbers.

2. Restricted Choice of Vehicles

A further matter of deep concern to many of our member drivers – and one that also impacts on quality – is the severely restricted choice of vehicles available to hackney owners in Manchester.

Among our members and customers there are undoubtedly traditionalists who have an affinity for the London-style cab. Equally, many owner-drivers are keen to move forward with more modern black cabs, such as those operating successfully almost everywhere around Manchester. Both groups of drivers understand that lack of competition in the market leads to inflated prices and to a poor level of service from the incumbent, near-monopoly suppliers.

I have owned and operated both LTI vehicles and new-style vehicles, such as the Peugeot E7, in various parts of the country, and have witnessed them working in major cities such as Liverpool, Birmingham and Glasgow. Apart from much better fuel economy, these modern vehicles are increasingly popular, because of the quality level and especially the greater comfort that they afford both customers and drivers. As a provider a Hackney based Booking and Dispatch services the very fact that such vehicles can seat six passengers at least offers us the opportunity to compete with multi seater private hire vehicles.

Whether the requirement for a 25ft turning circle is relevant in London is doubtful, but I can say with certainty that in all of the major cities outside London it is a complete irrelevance. Manchester is no exception but remains one of the last remaining Provincial cities where these antiquated regulations still exist.

The London Conditions of Fitness are, therefore, a sever and unjustified impediment to our efforts and those of our drivers to offer a modern, efficient, high quality service. They mean many of our members having to pay thousands of pounds more for vehicles that they do not want. They mean that we are not able to offer our customers the use of modern, comfortable vehicles, alongside our traditional, London-style cabs. And the mean higher fuel

bills for drivers and more pollution for the public as a whole.

There is a further major issue with regard to serving the needs of disabled customers. Anyone with the slightest knowledge of the vehicles concerned will understand the difficulty of loading and correctly securing a wheelchair passenger in a London-style cab. Alternative, modern-style cabs have a much greater interior flat floor space and so are very much better suited to carrying wheelchair passengers in both comfort and safety. The fact that we are unable to offer this product in Manchester represents a severe restraint on this company's ability to offer a high quality service, as well as having a detrimental impact both on our drivers and our disabled customers.

I trust that the Law Commission will be keen to take on board these concerns, in order to create a platform from which we are better able to continue to develop our business by undertaking continuous improvement in the services that we offer to the Manchester public and business community.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Alan Bray', with a long, sweeping tail that extends to the right.

Alan Bray
Managing Director

From: Simon Pagram [REDACTED]
Sent: 10 September 2012 20:18
To: TPH
Subject: Wedding cars

Please accept this email as my objection to your proposed bill. There is a thriving industry, in a very depressed Britain, where people can hire something a bit special for their special day without breaking the bank. Your proposals will make this impossible, and will also put yet more people out of work. Think about all of the motor industry that also relies on this business, specialist small company's dealing in old vehicles. Come on guys, think about it, your putting in a bill for no reason, all of these cars are specialist, so are all very well maintained, and driven by enthusiasts.. It makes no sense Simon Pagram

Sent from my iPad

From: S.M.J. Wedding Cars [REDACTED]
Sent: 10 September 2012 20:59
To: TPH
Subject: Law commission proposal for wedding cars

Importance: High

To whom it may concern,

After reading the proposals regarding the law commission for wedding and funeral cars to be incorporated in to the same category as taxis and private hire, I strongly disagree as I believe it would be the end of many wedding car companies.

I run a small family wedding car company and we only provide a service for weddings. We are not a taxi service nor private hire, we are a wedding service that operates seasonally when the work is available thus only doing about 1500 miles a year. Some months during the winter we don't have any weddings, begging the question to how we could afford these extra costs?

Taxis and private hire are on the road 24 hours a day, 7 days a week. They can recuperate their expenses by working these hours. Wedding cars can not operate in this way as weddings are mainly on weekends, and because weddings generally take place around the same time we can not take on more than one wedding with that car.

I hope common sense will prevail otherwise this will be a sad end to a traditional industry that has brought happiness to many couples and their families. Jobs will be lost which will be an increase on the benefit system and the family business will be destroyed along with all the hard work and efforts put in by many; hope will be gone and no faith will be had with this government.

Yours Faithfully,

Mrs.S.Jones

SMJ Wedding Cars
Swansea

[REDACTED]

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From: Nigel Priestley [REDACTED]

Sent: 10 September 2012 21:04

To: TPH

Subject: Inclusion of Wedding and Funeral cars in the proposed new Private Hire and Taxi legislation

Dear Law Commission Members,

I am a typical provider of a vintage wedding car hire service to people who want something memorable and special when they get married. I have done this for over 30 years and have had no incidents of any kind, just many scores of happy and delighted customers who often send back cards of appreciation.

The enjoyment is from both sides as I very much enjoy sharing the experience of travelling in very fine British cars, in my case pre-war Daimlers. The history, smell, sound and smoothness of these vehicles is something that has to be experienced to convey the unique occasion that only such cars can provide.

So it is with some shock and dismay that I learn that there is likely to be a proposal that will see cars used in this way included in the new Private Hire and Taxi legislation. The question is why? What have we wedding car services people being doing wrong? I will stress that we are certainly not part of the regular taxi hire industry and that the turnover is normally quite small - in my case less than £5,000 per year and normally on Saturdays on about 16 times a year.

I have looked at the extra costs that would be incurred if the new legislation were to become law and it makes no sense to continue to offer this service any more.

Indeed have to spoken to others in a similar position I have yet to find someone who will be able to afford the extra costs; the result is everyone will stop being able to provide this service.

This will have a profound effect on our customers who will be faced with a very small choice of vehicles for wedding hire, mostly modern cars. It will also hit the very areas of the local economy that the Government are saying they want to see become stronger in the provinces to help pull us out of recession. It seems to me that as a nation we are becoming ever more obsessed with more onerous and stifling rules that do little or nothing to help the hard pressed family unit. What we need is wealth creators not burdensome bureaucrats who just continue to drag our beloved nation further into the darkness of contraction and failure.

I therefore urge you to leave what is currently running quite safely, smoothly and without issue, entirely alone.

Yours faithfully, Nigel Priestley

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From: Robert Quinn [REDACTED]
Sent: 10 September 2012 21:20
To: TPH
Subject: Licensing Funeral and Wedding vehicles
Dear Sirs

We write with concern over the proposals to license funeral and wedding vehicles. We are both Funeral Directors and Wedding Car providers and were once private hire licensed as a result of our chauffeur business. So we have an insight into the problems faced, other than the cost implications.

1. Most of our staff are retired professionals and work part time flexible hours. We considered licensing again and found that our staff had little desire to sit exams or be faced with the various checks involved.
2. Because hours are irregular we have a reasonably high staff turnaround. It would make it very expensive to replace people if they decide to leave.
3. Staff may then take on private hire work of their own or be lured away.
4. Both funerals and weddings are huge focal points and every detail matters. A private hire plate would look disgusting on vehicles used.
5. Some of our vehicles are nearly eighty years old and may not stand up well to private hire testing.
6. It would be impossible to adapt our vehicles for wheelchair access.
7. Extra staff may be required to substitute for people sitting tests or renewing licenses.

Many problems appear to be associated with sub standard stretch limousines which of course must be addressed. A possible solution maybe to limit classification by the length of vehicle, rather than seating. Another is to move the responsibility to the employer. We have done this with employees for many years. We choose dignified professional individuals. A special VOSA test could be devised and a certificate required, rather than plating.

Using these vehicles commercially has now become the only practical way to maintain them. Extra costs and regulation may hamper efforts to keep some on the road. It would be sad to lose even more of our heritage to spiralling costs.

Regards

Robert Quinn
Director

REGISTERED OFFICE
Quinns of Greasby Lrd

Registered in England & Wales Reg. No. 04121592

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From: Chris Hill [REDACTED]
Sent: 10 September 2012 21:26
To: TPH
Subject: Consultation Paper 203 - Proposal 11
Dear Sirs

I have already submitted my personal thoughts in a previous e-mail regarding the title proposal. However, I have since been in contact with many others in the Wedding Car Industry (incidentally, part of the Wedding Service Providers Industry, not the Transport Industry) and discovered that without exception all other businesses concur with my belief that to include Wedding Cars within the Private Hire cadre for licensing purposes would be fatal to the current industry, would without good reason clear the roads of many historic vehicles and deprive future Brides of the long held tradition of arriving for their weddings in vehicles not normally seen on today's roads - namely, historic vehicles.

Can it honestly be said that 'licensing' many thousands of historic vehicles will achieve anything? And if they are to be licensed, to what standard? How will a 60 year old vehicle fit in to any modern standard? Since when have we had a serious national problem with the owners of historic vehicles? Why CRB checks? - Why would any wedding party member be at risk from a wedding car chauffeur? Wedding party members travel in groups - never is one person carried by themselves - it just does not happen. Wedding cars are booked many months if not years in advance - clients have every opportunity to check the wedding car business for themselves before committing to hiring the vehicle. I

Reading widely on the internet, I have the feeling that many PHV and Taxi associations have provided the LC with comment suggesting the licensing of wedding cars and others as a requirement, but providing no evidence whatsoever for their opinions or supporting their reasons for the 'requirement' with a valid argument, or indeed, any argument at all.

I would now wish to re-iterate that I and all others within the Wedding Car Industry oppose Proposal 11 and urge the LC to retract the proposal before progressing the paper to the SofS for Transport, or at the very least, inform the SofS of the strong opposition to the Proposal 11 from within the Wedding Car Industry in the belief that the SofS will be able to make a valid and considered judgement on the issue. The submission to the LC from the National Association of Wedding Car Professionals will serve to indicate the strength of opinion from within our industry.

Kind Regards

Chris Hill MBE
Proprietor
'One Man And His Jaguars'
Vintage & Classic Wedding Car Hire
[REDACTED]

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DAVID RANDALL

TRURO TAXIS

Poslisken cottage

Truro

cornwall

Law Commission

Pro proposal 1

Only if you keep limits otherwise you might as well have a 1 tier service.

Pro proposal 2

Yes London should be included having the same apply to them as the rest of the country.

Pro proposal 3

Agreed the service needs all types of vehicles not just certain types like London use.

Pro proposal 4

No comment.

Pro proposal 5

Agree

Pro proposal 6

Agree

Pro proposal 7

Agree

Pro proposal 8

Agree

Question 9

No Comment

Pro proposal 10

Agree

Pro proposal 11

Agree

Question 12

No comment

Pro proposal 13

No comment

Question 14

No comment

Pro proposal 15

These measures should only be taken up if limits are to be kept and added to all areas or if not a single tiered system should be adopted.

Pro proposal 16

Same as 15

Question 17

No comment

Pro proposal 18

Agree

Pro proposal 19

This should only applied if limits are kept if not a one tier system

Pro proposal 20

This would not be necessary because most insurance company's now allow non professional use of taxis by removing the plate.

Pro proposal 21

I do not agree that the secretary of state should have any say in taxi or private hire licensing requirements this should stay in council hands as these have been doing for many years and the courts can then decide on necessary legal requirements if challenge

Pro proposal 22

Agree

Pro proposal 23

Agree

Pro proposal 24

Agree

Pro proposal 25

Agree

Pro proposal 26

I believe they should be the same standards as the taxis

Pro proposal 27

I disagree private hire services should do the same as taxis there is no subtitles for local and area knowledge for this job.

Question 28

?

Question 29

?

Question 30

No

Pro proposal 31

Agree

Pro proposal 32

Agree

Question 33

?

Pro proposal 34

No if the standards national are alright to be safe then why should council have the power to tell you that they need to be more

Question 35

?

Question 36

?

Question 37

They should operate on a statutory footing

Pro proposal 38

?

Pro proposal 39

We had rural plates (these where zoned there was green for rural plates and red for Truro and all others where white) in Carrick council in Cornwall up until 2007 and then they were removed because when they where started they were not legal.

Then they where all white plated taxis then that could operate anywhere in Carrick the plates for rural areas where then sold to people who they brought them to truro we now have 83 plates in Carrick with 78 working in Falmouth or truro 4 in pearnporth.(truro 32, 48 in Falmouth)

Which left none in the rural area so the idea to help the small rural areas with taxis services was lost on the big company's charge more to do out of town jobs.

So giving authorities the option would be very beneficial.

Pro proposal 40

What be the point of this all it would do is cost money full time taxi drivers would leave the taxi trade because when they could earn money after doing all the quiet times part times would come in to make a quick buck.

Pro proposal 41

?

Pro proposal 42

Agree

Pro proposal 43

Agree

Pro proposal 44

?

Question 45

Set in primary legislation

Pro proposal 46

?

Question 47

Set out in primary legislation

Pro proposal 48

Agree

Question 49

No Comment

Question 50

No Comment

Question 51

Agree

Pro proposal 52

Agree

Question 53

No I see no reason for this as you would not be keeping records of rank pick up or hail jobs so I see no point of this.

Pro proposal 54 and question 55

Licensing authorities should retain the power to restrict taxi numbers.

I have been in the taxi trade in Truro and Falmouth for 18 years I have seen the trade get worst every year for the last 10 years due to rising costs of fares and for the last 2 years the recession we work in a rural area there are 33 taxis that work in Truro and 49 in Falmouth we have rank spaces in Truro for 9 taxis every day now there is no room for us all and have to over rank every day and now we have problems with CEO from the council trying to issue us with tickets all the time.

If you were to remove limits, like other council around the country we would turn in to chaos with the council making money from plates and parking tickets when we can't park on any ranks and have to over rank to make a living I would leave the trade if this was to happen.

On the note of ranks I having been fighting the highways department for new rank spaces for 5 years to no avail so what do you think would happen if you delimited.

One problem with keeping limits is the problem we face in Truro with the company A TO B TAXIS OF TRURO LTD. This company has the most money and buys any plates that come up for sale meaning they now have 17 of the 33 plates that operate and the council say that they can do nothing to stop them trying to monopolise Truro .

I believe that limits should be kept and added to all council in the country but no one company should be allowed to own more than a certain percentage of the plates, years ago Carrick only allowed companies to own 4 plates.

This would protect the trade by limits but if you were to remove them you should make it a one tier system because this will happen anyway.

Delimits would create congestion in small towns and cities like ours, like what is happened in other council now if delimits worked how do you explain councils that have removed them that then has put a cap on numbers because of the chaos it caused.

Once you delimit the damage would be done there is no proof that delimits improve services in fact there is enough evidence to prove the complete opposite.

The need for delimits is not there every other business is restricted by the amount of building available or land this is not the case you could delimit in one area that has 100 plates the next week after delimiting 400 this has happened in Camborne and Redruth area where there is no limits these are only small towns with problems with taxis. They have in excess of 180 taxis that is small town and they have serious problems with over ranking and generally no ranks.

Question 56

If you decide to delimit transitional measures should be used it would stop the problems that have been created in other areas. I still do not agree with removing limits but this would stop business go bust they will have time to adjust.

Question 57

No comment

Question 58

No why should you paid more for cars that have been proven that disable people need this type vehicle as well as accessibility vehicles it a proven fact that no vehicle fits all.

Question 59

By keeping limits you go along way by giving people the incentives to keep investing in the trade a % of plates is a good idea but not the way it has been brought up.

Question 60

Comments on question 59 cover what I think on this.

Pro proposal 61

No comment

Pro proposal 62

No comment

Question 63

I have no idea to this question as I have never come across this problem down here.

Question 64

I agree but these officers must have better training so that they carry out these duties as most officers I have come across are not aware of the law.

Question 65

No comment, have no problems in this area.

Question 66

I am against this as it is easy to make mistakes and this could costs owner lots of money for overzealous officers.

From: Paul Roberts [REDACTED]
Sent: 10 September 2012 21:42
To: TPH
Subject: Proposed new Private hire and Taxi legislation
To Whom It Concerns,

We are not part of the transport industry we are part of the wedding services industry!!!

Why are the wedding car and funeral industries being lumped in with the transport industry? Wedding cars and funeral cars are two distinctly totally separate industries certainly not linked in any way with mini-cabs or taxis.

I totally object to the proposals.

I run 3 cars i'm only a small business i would'nt be able to afford all the extra costs which would come if we are classed as private hire.

Regards

Paul Roberts

Blushing Bride Wedding Cars

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From: barry milne [REDACTED]
Sent: 10 September 2012 22:08
To: TPH

Subject: Taxi and Private Hire research

Dear Hannah Gray 1 All people Who do hire and reward should be licensing by local authority whether the vehicle is check by V.O.S.A so the people can be check to be fit and proper c.r.b and stop people moonlighting and putting the public in danger,no exemption Taxi plates should be left to local authority with so many plates define a year deregulation does not work,chlelmsford is example where local authority was only intrested in licence money whether there was work or space for them to rank up, all taxi plates should handed back to local authority and not sold on black market.

yours sincerely B Milne operator/driver stevenage and a member of the G.M.B profession driver branch

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Our Ref: Q:\JIM\Law Commission - Taxis\
JB & Co response\JB & Co response.doc

Your Ref:

10 September 2012

Public Law Team (Taxi and Private Hire),
Law Commission,
Steel House,
11 Tothill Street,
London
SW1H 9LJ

Dear Sir or Madam

Re: Reforming the Law of Taxi and Private Hire Services - A Consultation Paper

Please find attached my response to the Taxi Law Reform Consultation.

I look forward to seeing your proposed law in due course.

Yours faithfully

James Button
Principal,
James Button & Co., Solicitors

James Button, James Button & Co., Solicitors, Derbyshire

Response to Law Commission Consultation on the Reform of the Law of Taxi and Private Hire Services

I am a Solicitor in private practice and I specialise in taxi licensing. I am the author of *“Button on Taxis – Licensing Law and Practice”* (3rd Ed Bloomsbury Professional Publishing, 2009).

I am delighted that the Law Commission are reviewing the law relating to hackney carriages and private hire vehicles, as it is long overdue, with numerous examples of problems being caused for the trades and local authorities, and I congratulate the Law Commission on the Consultation Document and appreciate the work that has gone into it.

I understand that all responses will be made public and I confirm that I have no problem with that.

General Points

The Consultation Document argues for the maintenance of the current 2 tier system (i.e. retention of the distinction between hackney carriages and private hire vehicles). Bearing in mind the terms of reference (“To review the law relating to the regulation of taxis and private hire vehicles, with a view to its modernisation and simplification, having due regard to the potential advantages of deregulation in reducing the burdens on business and increasing economic efficiency.”) this seems to be a flawed premise.

Two different but broadly comparable systems, operating in parallel cannot be seen as simple. Of necessity it duplicates regulation, leads to confusion and problems of enforcement. It is difficult to see how maintaining a 36 year old system can be modernising, and the need to choose the type of licence to apply for (which then limits your activities) must be a burden to business.

It is unfortunate that the question of whether there should be single tier licensing, or 2 tier is covered by one Provisional Proposal, when this goes to the heart of the question of reform of the law.

An acceptance of the current 2 tier system can only lead to what will ultimately be minor variations and alterations to the current system: tinkering at the edges rather than the wholesale root and branch reform to make the legislation both fit for current requirements, and future proof it as far as possible.

My response is therefore in two parts, answering the questions in relation to a single tier system (including a proposal for such a system) and then answering the questions again in the light of the proposal to continue with the 2 tier system.

Part One – A single tier system

The consultation proposes that the existing 2 tier system should be maintained to achieve a different level of regulation for the competitive ‘pre-booked market and the uncompetitive hail and rank market’ (Para 30.8). Alongside this is a suggestion that there should be minimum standards for all vehicles (which would be the same) but a higher level of standards might then be applied to hackney carriage vehicles.

This seems to be a flawed premise. The regulation of vehicles, drivers and operators is necessary to protect public safety. This protection should include vetting (drivers and operators), an inspection regime for vehicles plus additional requirements such as the display of plates, control of fares etc., designed to assist and protect the public.

A position that would see some vehicles requiring less regulation than others that are conducting essentially the same work (carrying fare paying passengers) seems peculiar. In addition, in most cases there is no pre-existing relationship between the customer and the driver of a pre-booked vehicle as most bookings are made via operators (even for pre-booked taxis).

The purpose of licensing is public safety – there can be no other justification. Accordingly the customer has the right to expect that the vehicle (whether approached on a rank, flagged down or pre-booked) is safe, driven by a safe and suitable person who is going to conduct the customer safely to their destination without seeking to overcharge them or put them in danger in any way.

Proposed single tier licensing system

The following is a practical, yet simple single tier licensing system using the minimum of regulation and allowing the greatest flexibility for businesses:

Vehicles

- a) All vehicles to be taxis which would be able to stand and ply for hire within the district or zone in which they are licensed and be pre-booked for journeys anywhere.
- b) All vehicles must be driven by a driver licensed by the same authority that licensed the vehicle.
- c) The minimum standards to enable a vehicle to be licensed would be that the vehicle is both safe and suitable for use as a taxi.
- d) The national minimum safety and suitability standards would set out factors such as testing levels (which should be above standard car MOT level) and frequency (which should be at least every 3 months, considering the mileage covered and wear and tear encountered, or it could be on mileage and vehicle age), seating capacity (minimum seat sizes per passenger), and minimum identification requirements.
- e) Local authorities would have the ability to set higher suitability standards than the national minimum suitability standards through a their own policy for taxis.

- f) This policy would enable the local authority to determine 'suitable vehicles' for taxi work. A saloon car and a purpose built taxi may both meet the vehicle safety standards, but a local authority might, opt to restrict the licensing of taxis to purpose built taxis..
- g) Local authorities would be able to apply conditions to individual vehicle licences.
- h) Wheelchair accessible vehicles would be able to use all ranks within the district / zone in which they are licensed.
- i) Local authorities would be able to introduce a permit system for using specified ranks by non wheelchair accessible vehicles which could be at a premium.
- j) Local authorities could set fares. All rank hiring's and hailing's could be charged at no more than the metered rate. All pre-booked hiring's would be subject to negotiation with no consideration of the metered rate.
- k) All journeys (whether pre-booked directly or via an operator, or otherwise (i.e. rank hiring's and hailing's) should be recorded to protect public safety.
- l) Receipts should be given to all passengers.
- m) No ability for the licensing authority to limit the number of licensed vehicles.

Drivers

- a) A national minimum standard for drivers.
- b) Drivers licensed by local authorities to work in that local authority area.
- c) Local authority able to apply driver standards above the national minimum (e.g. knowledge tests).

Operators

- a) Any person taking bookings for more than 1 vehicle must be licensed as an operator.
- b) Minimum requirements for information recorded by licensed operators.
- c) All operators and staff working for licensed operators must meet minimum standards.

Regulations

- a) Regulations would set out the procedures for hearings (public hearing unless in public interest that the hearing is not in public – as per LA03) and national vehicle standards.

Under the above system, the driver and/or owner can then decide how to use the vehicle. If it is wheelchair accessible, all options are open. If not, the local authority can allow specified rank use, or it is used for pre-booked work.

The local authority could exempt vehicles from external identification features ("executive hire") but any such vehicle could then only undertake pre-booked work.

PROVISIONAL PROPOSAL 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and PHVs, which can only accept pre-booked fares.

1.1 No, there should be single tier licensing, for reasons, please see above.

PROVISIONAL PROPOSAL 2

London should be included, with appropriate modifications, within the scope of reform.

2.1 Yes. There is no reason why regulation in London should be different from elsewhere in England and Wales.

2.2 Under this single tier proposal a local or licensing authority could restrict the use of ranks to wheelchair accessible vehicles, and that, would address the political objections in London to single tier licensing.

PROVISIONAL PROPOSAL 3

The regulation of taxis and PHVs should not be restricted to any particular type of vehicle, but should rather focus on road transport services provided for hire with the services of a driver.

3.1 Agreed and should apply to all vehicles seating up to 8 passengers. Vehicles seating more than 8 passengers should be the responsibility of the Traffic Commissioners and licensed as PSVs and there should be no overlap.

QUESTION 4

Would there be – and if so, what – advantages to restricting licensing to motor vehicles that require a driving licence?

4.1 None, as any vehicle, driver and operator need to be safe and suitable, which requires vetting and licensing.

PROVISIONAL PROPOSAL 5

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a. References to ranking and hailing.

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15.1 There would be no need for this under a single tier licensing system.

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The concepts of hailing and ranking should not cover technological means of engaging taxi services.

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18.1 There is currently no compellability for hailing's. The law is clear that compellability does apply for rank bookings and this should be maintained. This would mean that any vehicle engaged from a rank must take a journey within the district unless there is a reasonable excuse not to.

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Pre-booking would continue to be the only way of engaging a PHV and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked.

19.1 Again, this problem does not arise under a single tier licensing system.

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Leisure and non-professional use of taxis and PHVs should be permitted. There would, however, be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.

20.1 The current system is simple to use and does not affect the use of the vehicle for family use. The only restriction being that the driver must hold a licence to drive a taxi issued by the parent Authority. Taxis are working vehicles and should be recognised as such.

Insurance companies need to ensure that insurance policies are worded clearly and in accordance with the legislation. e.g. current references to 'public hire' are misleading.

PROVISIONAL PROPOSAL 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and PHV licensing requirements.

21.1 If the law is clear there should be no need for statutory guidance particularly where there are also statutory minimum standards to be imposed as is proposed. The danger here is that all too often, statutory guidance is a means for the Government Department to try to impose their interpretation on the legislation. It is inevitably more red tape rather than less.

PROVISIONAL PROPOSAL 22

Reformed legislation should refer to "taxis" and "PHVs", respectively. References to "hackney carriages" should be abandoned.

22.1 Again, this problem does not arise under a single tier licensing system when all vehicles would be called "taxis"

QUESTION 23

Should PHVs be able to use terms such as "taxis" or "cabs" in advertising provided that they are only used in combination with terms such as "pre-booked" and do not otherwise lead to consumer confusion? Current law prohibits private hire operators from using the terms "taxi" or "cab" in signs and advertising. Many people use the term "minicab".

23.1 Again, this problem does not arise under a single tier licensing system when all vehicles would be called "taxis"

PROVISIONAL PROPOSAL 24

Taxi and private hire services should each be subject to national safety requirements.

24.1 I agree that there should be national safety standards but proper consideration (subject to proper consultation) must be given to what those standards will be.

24.2 It important to distinguish between vehicle safety standards, vehicle suitability and driver safety standards.

24.3 I agree that effective cross-border enforcement is essential to creating an effective licensing regime that delivers national standards of public protection.

PROVISIONAL PROPOSAL 25

National safety standards, as applied to taxi services, should only be minimum standards.

25.1 All licensed vehicles should be treated the same with minimum national standards with the licensing authority able to apply additional requirements which might relate to signage, etc.

25.2 To achieve consistency and fairness, testing requirements for drivers should also be subject to national minimum standards.

25.3 There needs to be an acceptance that vehicle safety standards are distinct from vehicle suitability, driver knowledge and driver safety.

PROVISIONAL PROPOSAL 26

National safety standards, as applied to private hire services, should be mandatory standards.

26.1 Again, this problem does not arise under a single tier licensing system.

PROVISIONAL PROPOSAL 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no longer apply to private hire drivers.

27.1 Again, this problem does not arise under a single tier licensing system

QUESTION 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage?

Are there other areas where local standards for PHVs are valuable?

28.1 Again, this problem does not arise under a single tier licensing system

QUESTION 29

What practical obstacles might there be to setting common national safety standards for both taxis and PHVs?

29.1 Under a single tier system, any safety standard set would apply to all vehicles.

29.2 A consumer should be safe when travelling in a taxi

29.3 Whilst not necessarily the standard to be applied, there are already national standards for the testing of all classes of motor vehicle used on our roads. See the VOSA 'MOT Test: Fees and Appeals' poster at <http://www.dft.gov.uk/vosa/repository/MOT%20test%20fees%20and%20appeals%20aPR%2010.pdf>

QUESTION 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services?

30.1 Again, this problem does not arise under a single tier licensing system

PROVISIONAL PROPOSAL 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and PHVs should only cover conditions relating to safety.

31.1 Safety standards should be set nationally within a regulatory framework for vehicles, drivers and operators.

PROVISIONAL PROPOSAL 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement.

32.1 Yes, but as mentioned previously, the standards must be the same for England and Wales.

QUESTION 33

What would be the best approach for determining the content of national safety standards?

In particular, should the statutory requirements to consult refer to a technical advisory panel?

33.1 There should be an independent and impartial Technical Advisory Panel to draft and consult on proposed standards .

PROVISIONAL PROPOSAL 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards.

34.1 Agree that under a single tier system local conditions should apply to matters such as fares, vehicle signage (over and above the national minimum).

QUESTION 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards?

35.1 No.

QUESTION 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators?

36.1 Yes, on taxi drivers and taxi operators under a single tier system.

QUESTION 37

Should the powers and duties of licensing authorities to co-operate be on a statutory footing, or is it best left to local arrangements?

37.1 It is best left to local arrangements.

PROVISIONAL PROPOSAL 38

Neighbouring licensing authorities should have the option of combining areas for the purpose of taxi standard setting.

38.1 Yes, and this power already exists under the Local Government Act 1972.

PROVISIONAL PROPOSAL 39

Licensing authorities should have the option to create or remove taxi zones within their areas.

39.1 Yes.

QUESTION 40

Would it be useful for licensing authorities to have the power to issue peak-time licences, which may only be used at certain times of the day as prescribed by the licensing authority?

40.1 A single tier with no power to limit vehicle numbers would negate any need for this.

PROVISIONAL PROPOSAL 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to using drivers or vehicles licensed by a particular licensing authority.

41.1 Under a single tier licensing system, all vehicles could undertake pre-booked work anywhere.

PROVISIONAL PROPOSAL 42

The Law Commission does not propose the introduction of a “return-to-area” requirement in respect of out-of-area drop offs.

42.1 Agreed.

PROVISIONAL PROPOSAL 43

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares.

43.1 Under a single tier licensing system local authorities should be able to set maximum fares for rank hiring's and hailing's, but pre-booked work would be by negotiation.

QUESTION 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys?

44.1 Yes, see answer to Q43 above.

44.2 All journeys should be recorded with the customer being given a detailed receipt providing the car / driver details, a short description of the journey, the meter rate and the actual price paid.

QUESTION 45

Should national driver safety standards such as the requirement to be a “fit and proper” person be either:

a. Set out in primary legislation; or

b. included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions?

45.1 Agree that the vetting criteria should be set out in regulations but there are dangers in this approach where certain offences are omitted. If they are contained in Regulations they can be altered more easily.

45.2 England and Wales MUST be the same

45.3 45 b) seems the best idea

45.4 There is a need for a national register. If possible, licensed operators should be able to ‘search’ the register to ascertain the validity of their drivers’ licences.

PROVISIONAL PROPOSAL 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself.

46.1 Vehicle owners should be vetted to avoid a position where a known criminal owns (and to a certain extent controls) a fleet of licensed vehicles.

QUESTION 47

Should national vehicle safety standards be either:

a. Set out in primary legislation; or

b. included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions?

47.1 Vehicle standards should be set out in Regulations which would allow more flexibility in future amendments. The set standards must be the same across England and Wales.

PROVISIONAL PROPOSAL 48

Operator licensing should be retained as mandatory in respect of PHVs.

48.1 Operator licensing should be mandatory for all operators taking bookings for more than 1 vehicle.

48.2 Single vehicle businesses and rank hiring’s and hailing’s must also keep records of journeys etc to protect public safety.

QUESTION 49

Should operator licensing be extended to cover taxi radio circuits and, if so, on what basis?

49.1 All journeys should either be booked via a licensed operator or direct with the driver and all journeys should be receipted. This would essentially mean any third party taking bookings on behalf of any vehicle will require an operator's licence.

PROVISIONAL PROPOSAL 50

The definition of operators should not be extended to include intermediaries.

50.1 If the intermediary is dealing only with licensed operators, then they would not require an operators licence, however where the intermediary is dealing directly with the driver of a vehicle then they should require an operator's licence.

QUESTION 51

Should "fit and proper" criteria in respect of operators be retained?

51.1 Yes operators should be vetted. The nature of their work gives them access to personal information including knowledge of customer's holidays/absences etc. All staff working for a licensed operator should also be vetted for the same reasons.

PROVISIONAL PROPOSAL 52

Operators should be expressly permitted to sub-contract services.

52.1 Yes, including across licensing authority boundaries but a record of who the booking was sub contracted to must be made.

QUESTION 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply?

53.1 Yes as per the response under proposal 48. Drivers should be allowed to accept bookings in their vehicles however a log or record should be maintained in case of incident or complaint so that there is evidence for the investigation.

PROVISIONAL PROPOSAL 54

Licensing authorities should no longer have the power to restrict taxi numbers.

54.1 Agreed and a single tier system would facilitate this. Number limitation is a restrictive practice which limits (or in many cases actually prevents) entrance to the market and then distorts potential earnings. Many drivers are forced to rent a vehicle from proprietors who own large quantities of Hackney carriage vehicles, which in turn restricts competition and ultimately limits passenger choice.

QUESTION 55

What temporary or permanent problems might arise if licensing authorities lost the ability to restrict numbers?

55.1 As any such change will be clearly proposed with a lengthy introduction time, owners of vehicles in areas that are number limited will be able to make arrangements to alleviate problems. I accept that there will be some hardship, but it has been clear since 1985 that a hackney carriage licence is not a secure asset.

QUESTION 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed?

56.1 This will probably not be necessary but if it is, there must be a short period of staggered entry and a ban on selling licences at a premium during that period.

QUESTION 57

Should there be a separate licence category for wheelchair accessible vehicles? This could involve:

a. A duty on licensees to give priority to disabled passengers; and

b. a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles.

57.1 Giving priority to disabled passengers would be very difficult to enforce, divisive and potentially problematic.

57.2 All ranks should be able to be used by wheelchair bound passengers.

QUESTION 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards?

58.1 No. any reduction is unlikely to balance the higher costs of accessible vehicles, and the costs would have to be borne by either the local authority or the other licensees.

QUESTION 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and for catering for the different needs of disabled passengers?

59.1 The incentive is the ability to use all ranks without permit or premium under the single tier proposal.

59.2 However, a Central Government grant or subsidy to encourage purchase of wheelchair accessible vehicles might prove effective.

PROVISIONAL PROPOSAL 60

The Commission does not propose the introduction of quotas for wheelchair accessible vehicles.

60.1 Quotas will not work. Part of the problem is that different disabled people have different needs; some people with lesser disabilities will only get into a normal un-adapted motor car, as many of the wheelchair accessible vehicles are high and difficult to get into. A quota would be likely to adversely affect the trade and without necessarily improving provision.

PROVISIONAL PROPOSAL 61

National standards for drivers of both taxis and PHVs should include recognised disability awareness training.

61.1 Agreed but it would need careful planning.

PROVISIONAL PROPOSAL 62

To better address concerns about discrimination, taxis and PHVs should be required to display information about how to complain to the licensing authority.

62.1 Information about complaining should be displayed for the benefit of all customers, not just the disabled. However, when different disabilities are considered, many different formats might need to be used – brail, large print etc. In addition, it should be contact information rather than an encouragement to complain.

QUESTION 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them?

Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help?

63.1 There is currently no requirement for a cruising taxi to respond to a hailing from anybody. Although at first glance this seems an attractive proposition, it would be almost impossible to enforce as an errant driver could argue that either they had not seen the prospective passenger, or that it was neither reasonable nor safe to stop.

63.2 Driver training and understanding of disabled people and their requirements is likely to be more effective in the long term.

QUESTION 64

Should authorised licensing officers have the power to stop licensed vehicles?

64.1 Again, this appears attractive but in practice would prove problematic. Local authority officers do not have the training or resources to stop vehicles in the way the police do.

64.2 Closer working with the police, and a greater understanding by the police of taxi related crimes would assist.

QUESTION 65

What more could be done to address touting (the offence in a public place of soliciting persons to hire vehicles to carry them as passengers)?

65.1 Touting can be a serious problem at airports and town centres with an active nightlife. However, there is a fine line between aggressive advertising and touting.

65.2 Single tier licensing would reduce many of the situations where touting is alleged, as any vehicle could pick up passengers at any time, eliminating a large part of the problem where a private hire firm and hackney carriages are competing.

65.3 Care should be taken in drafting any new touting legislation to ensure that it does not unintentionally catch hotel porters who stand outside the hotel where they work and ask customers whether they wish them to hail a taxi.

QUESTION 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules?

66.1 Yes, and might prove an effective deterrent. Single tier licensing would enable this power to be used against unlicensed vehicles where the driver has no hackney carriage or private hire drivers licence to lose.

66.2 The local authority would need to be able to charge administrative, storage and legal costs before the vehicle was returned, with a maximum period for collection of the vehicle. Powers to dispose of the vehicle after that time would be essential.

QUESTION 67

Should licensing authorities make greater use of fixed penalty schemes and, if so, how?

67.1 Yes. Fixed penalty notices have proved to be an effective and efficient way of dealing with crimes in other fields. The local authority should have discretion over whether a fixed penalty notice is used, and must be able to prosecute if necessary.

PROVISIONAL PROPOSAL 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas.

68.1 Yes, subject to the caveats over stopping vehicles mentioned in the answer to question 64.

QUESTION 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so, what would be the best way of achieving this?

69.1 Again, this sounds attractive and should be available. The risk is that one authority will end up effectively enforcing on behalf of another with no recompense. This needs to be considered.

PROVISIONAL PROPOSAL 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, the holder of the relevant licence.

70.1 Agreed.

PROVISIONAL PROPOSAL 71

The first stage in the appeal process throughout England and Wales – in respect of refusals, suspensions or revocations – should be to require the licensing authority to reconsider its decision.

71.1 As the decision (whether made by an officer or committee) as the decision of the local authority under delegated powers, requiring it to reconsider its decision seems perverse. In addition it could severely undermine confidence in the initial decision maker (whether officer or committee). In addition it is difficult to see the practical advantages of this proposal.

PROVISIONAL PROPOSAL 72

Appeals should continue to be heard in the magistrates' court.

72.1 Ideally taxi licensing appeals (and other licensing appeals) should be heard by a new licensing tribunal (modelled on Employment Tribunals) with a legally qualified chair and trained members. Appeals from there should be to the Licensing Appeals Tribunal, as per Employment Tribunals.

72.2 It should be noted that appeals against refusals to grant hackney carriage vehicle licences currently go to the Crown Court, but this is an anomaly when compared to all other cases (including refusal to renew a hackney carriage vehicle licence, or appeals against conditions attached to a hackney carriage vehicle licence) which go to the magistrates court – the appeal mechanism should be the same for all taxi related licences.

QUESTION 73

Should there be an outright right of appeal to the Crown Court?

73.1 No. Both the Licensing Act 2003 and the Gambling Act 2005 (the most modern wholly new licensing regimes) only allow an appeal to the magistrates court. The right of appeal again to the Crown Court is an anachronistic legacy from the days of Petty Sessions and Quarter Sessions.

Part Two – A 2 tier system

PROVISIONAL PROPOSAL 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and PHVs, which can only accept pre-booked fares.

1.1 If two tier licensing is to be retained, I would suggest using the terms “Taxi” and “Mini-Cab” for the two types.

PROVISIONAL PROPOSAL 2

London should be included, with appropriate modifications, within the scope of reform.

2.1 Yes. There is no apparent reason why regulation in London should be different from elsewhere in England and Wales. London

PROVISIONAL PROPOSAL 3

The regulation of taxis and PHVs should not be restricted to any particular type of vehicle, but should rather focus on road transport services provided for hire with the services of a driver.

3.1 Agreed and should apply to **all** vehicles seating up to 8 passengers. Vehicles seating more than 8 passengers should be the responsibility of the Traffic Commissioners and licensed as PSVs and there should be no overlap.

QUESTION 4

Would there be – and if so, what – advantages to restricting licensing to motor vehicles that require a driving licence?

4.1 None, as any vehicle, driver and operator need to be safe and suitable, which requires vetting and licensing.

PROVISIONAL PROPOSAL 5

Public Service Vehicles should be expressly excluded from the definition of taxi and PHVs; and taxis and PHVs should only cover vehicles adapted to seat eight or fewer passengers.

5.1 Agreed and reform should go further and restrict PSV licenses to vehicles which have more than 8 passenger seats only. This would remove the anomaly of the Traffic Commissioner licensing vehicles of 8 seats or less and operators choosing who to licence with Local Authorities or Transport Commission as explained in the response to Provisional Proposal 3 above.

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The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other “novelty” vehicles to assist consistency.

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13.1 Agree – this should be any place within the district.

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a. References to ranking and hailing.

b. A non-exhaustive list of factors indicating plying for hire.

c. Appropriate accommodation of the legitimate activities of PHVs.

15.1 The current law on plying and standing for hire is confused and lacks certainty. The leading case of *Nottingham City Council v Woodings* [1994] RTR 72 even suggests that exhibition of the vehicle (which had been accepted as an integral part of the requirements for standing or plying for decades before) was not necessarily required. That, allied with confusion over the role of the driver, and the location of the vehicle, will make the creation of a statutory definition that does not alter the current concept very difficult to achieve. However, a statutory definition, if carefully considered, should prove a valuable aid to certainty.

PROVISIONAL PROPOSAL 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services.

16.1 I agree, although already the distinction can be very fine (Para 14.75), and is only likely to reduce further as technology advances.

QUESTION 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place”, instead of “plying for hire”?

17.1 If there is a statutory definition of plying and standing for hire based on the case law, the need for this question seems itself questionable. The concept of “public” especially when allied to “place” is a notorious problem for enforcement. As the proposals stand (for two tier licensing) it is difficult to see any particular advantage in moving to the Scottish concept.

PROVISIONAL PROPOSAL 18

The concept of compellability, which applies exclusively to taxis, should be retained.

18.1 There is currently no compellability for hailing's. The law is clear that compellability does apply for rank bookings and this should be maintained. This would mean that any vehicle engaged from a rank must take a journey within the district unless there is a reasonable excuse not to.

PROVISIONAL PROPOSAL 19

Pre-booking would continue to be the only way of engaging a PHV and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked.

19.1 Agreed if 2 tier licensing is to remain.

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Leisure and non-professional use of taxis and PHVs should be permitted. There would, however, be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.

20.1 The current system is simple to use and does not affect the use of the vehicle for family use. The only restriction being that the driver must hold a licence to drive a taxi issued by the parent Authority. Taxis and PHVs are working vehicles and should be recognised as such.

Insurance companies need to ensure that insurance policies are worded clearly and in accordance with the legislation. e.g. current references to 'public hire' are misleading.

PROVISIONAL PROPOSAL 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and PHV licensing requirements.

21.1 If the law is clear there should be no need for statutory guidance particularly where there are also statutory minimum standards to be imposed as is proposed. The danger here is that all too often, statutory guidance is a means for the Government Department to try to impose their interpretation on the legislation. It is inevitably more red tape rather than less.

PROVISIONAL PROPOSAL 22

Reformed legislation should refer to "taxis" and "PHVs", respectively. References to "hackney carriages" should be abandoned.

22.1 I agree if 2 tier licensing remains and would suggest the use of the terms 'taxi' and 'minicab' rather than 'private hire'

QUESTION 23

Should PHVs be able to use terms such as “taxis” or “cabs” in advertising provided that they are only used in combination with terms such as “pre-booked” and do not otherwise lead to consumer confusion?

Current law prohibits private hire operators from using the terms “taxi” or “cab” in signs and advertising. Many people use the term “minicab”.

23.1 If two tier licensing is retained, the terms “taxi” and “minicab” would be suitable to describe the two types of vehicle and help reduce public confusion. If that is the case, they must remain exclusive to those two types. The concept of a “pre booked taxi” actually meaning a PHV/minicab is ridiculous and will lead to public confusion. Would anyone suggest the term “non-pre-booked private hire vehicle” for a taxi?

PROVISIONAL PROPOSAL 24

Taxi and private hire services should each be subject to national safety requirements.

24.1 I agree that there should be national safety standards but proper consideration (subject to proper consultation) must be given to what those standards will be.

24.2 It important to distinguish between vehicle safety standards, vehicle suitability and driver safety standards.

24.3 I agree that effective cross-border enforcement is essential to creating an effective licensing regime that delivers national standards of public protection.

PROVISIONAL PROPOSAL 25

National safety standards, as applied to taxi services, should only be minimum standards.

25.1 All taxis should meet minimum national standards with the licensing authority able to apply additional requirements which might relate to signage, etc. To achieve consistency and fairness, testing requirements for drivers should also be subject to national minimum standards.

25.2 There needs to be an acceptance that vehicle safety standards are distinct from vehicle suitability, driver knowledge and driver safety.

PROVISIONAL PROPOSAL 26

National safety standards, as applied to private hire services, should be mandatory standards.

26.1 All PHVs should meet minimum national standards, including standard signage and identification, allowing for local authority identification to be contained within a national template. This should help to prevent “licence shopping”. To achieve consistency and fairness, testing requirements for drivers should also be subject to national minimum standards.

26.2 As above, there needs to be an acceptance that vehicle safety standards are distinct from vehicle suitability, driver knowledge and driver safety.

PROVISIONAL PROPOSAL 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no longer apply to private hire drivers.

27.1 I agree that the suitability standards for private hire vehicle drivers should be set nationally, but the introduction of such arrangements means that the standard must be set at a level that is appropriate for the whole of England and Wales, including London.

27.2 It is also important to differentiate between driving safety and other aspects of safety (honesty, sobriety etc)

QUESTION 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage?

Are there other areas where local standards for PHVs are valuable?

28.1 Yes, see answer to question 26 above.

QUESTION 29

What practical obstacles might there be to setting common national safety standards for both taxis and PHVs?

29.1 Under a 2 tier system, any safety standard set should apply across the board and licensing authorities should not be able to set standards for one type of vehicle lower than the national standard. It is difficult to justify higher safety standards being set for taxis.

29.2 A consumer should be as safe when travelling in either type of licensed vehicle. For that reason alone, we are of the view that the vehicle safety standard should be the same for taxis and private hire vehicles.

29.3 Whilst not necessarily the standard to be applied, there are already national standards for the testing of all classes of motor vehicle used on our roads. See the VOSA 'MOT Test: Fees and Appeals' poster at <http://www.dft.gov.uk/vosa/repository/MOT%20test%20fees%20and%20appeals%20aPR%2010.pdf>

QUESTION 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services?

30.1 Is this referring to safety of the driver (from attacks from passengers) or safety of the driver towards passengers – ensuring the driver is safe and suitable?

30.2 In the former case, I suggest it should be open to local authorities to set local safety standards.

30.3 In relation to the latter national standards need to be considered (please see the end of this response where I deal with drivers in more detail)

PROVISIONAL PROPOSAL 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and PHVs should only cover conditions relating to safety.

31.1 Safety standards should be set nationally within a regulatory framework for vehicles, drivers and operators.

PROVISIONAL PROPOSAL 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement.

32.1 Yes, but as mentioned previously, the standards must be the same for England and Wales.

QUESTION 33

What would be the best approach for determining the content of national safety standards?

In particular, should the statutory requirements to consult refer to a technical advisory panel?

33.1 There should be an independent and impartial Technical Advisory Panel to draft and consult on proposed standards .

PROVISIONAL PROPOSAL 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards.

34.1 I agree that local conditions should apply to taxis in relation to matters such as fares, vehicle signage (over and above the national minimum). .

QUESTION 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards?

35.1 No

QUESTION 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators?

36.1 Yes, on taxi drivers and taxi operators, private hire drivers, and operators under 2 tier system.

QUESTION 37

Should the powers and duties of licensing authorities to co-operate be on a statutory footing, or is it best left to local arrangements?

37.1 It is best left to local arrangements.

PROVISIONAL PROPOSAL 38

Neighbouring licensing authorities should have the option of combining areas for the purpose of taxi standard setting.

38.1 Yes, and this power already exists under the Local Government Act 1972.

PROVISIONAL PROPOSAL 39

Licensing authorities should have the option to create or remove taxi zones within their areas.

39.1 Yes.

QUESTION 40

Would it be useful for licensing authorities to have the power to issue peak-time licences, which may only be used at certain times of the day as prescribed by the licensing authority?

40.1 If there is no ability to limit taxi numbers, it is difficult to see what the supposed attraction of a peak time licence would be

PROVISIONAL PROPOSAL 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to using drivers or vehicles licensed by a particular licensing authority.

41.1 How would a licensed operator using a driver licensed by another authority know if a driver's licence had been revoked by that authority? The local authority revoking the licence would not be aware which operator(s) the driver worked for if they were not licensed by that same authority, so they would not be able to make the operator aware. This has huge implications in respect of the safety of passengers.

41.2 There should be a national register of drivers and operators. This would provide a checking mechanism for licensing authorities when considering a new applicant as well as providing information about revocations, refusals etc.

PROVISIONAL PROPOSAL 42

The Law Commission does not propose the introduction of a "return-to-area" requirement in respect of out-of-area drop offs.

42.1 Agreed

PROVISIONAL PROPOSAL 43

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares.

43.1 If there is to be two tier licensing, I agree that setting the maximum fare for taxis is a necessary and protects the public from being overcharged as well as providing a visible price guide for the customer.

QUESTION 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys?

44.1 This should be allowed ONLY where the fare has been pre-agreed for a pre-booked journey. All hailed / rank bookings should work to the meter and pre-booked are off the meter as described.

44.2 All journeys should be recorded with the customer being given a detailed receipt providing the car / driver details, a short description of the journey, the meter rate and the actual price paid.

QUESTION 45

Should national driver safety standards such as the requirement to be a “fit and proper” person be either:

a. Set out in primary legislation; or

b. included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions?

45.1 Agree that the vetting criteria should be set out in regulations but there are dangers in this approach where certain offences are omitted. If they are contained in Regulations they can be altered more easily.

45.2 England and Wales MUST be the same

45.3 45 b) seems the best idea

45.4 There is a need for a national register. If possible, licensed operators should be able to ‘search’ the register to ascertain the validity of their drivers’ licences.

PROVISIONAL PROPOSAL 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself.

46.1 Vehicle owners should be vetted to avoid a position where a known criminal owns (and to a certain extent controls) a fleet of licensed vehicles.

QUESTION 47

Should national vehicle safety standards be either:

a. Set out in primary legislation; or

b. included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions?

47.1 Vehicle standards should be set out in Regulations which would allow more flexibility in future amendments. The set standards must be the same across England and Wales.

PROVISIONAL PROPOSAL 48

Operator licensing should be retained as mandatory in respect of PHVs.

48.1 Under a 2 tier system, operator licensing should be mandatory for all operators taking bookings for more than 1 vehicle, whether those are taxis or private hire vehicles.

Single vehicle businesses and rank hiring's and hailing's must also keep records of journeys etc to protect public safety.

QUESTION 49

Should operator licensing be extended to cover taxi radio circuits and, if so, on what basis?

49.1 All journeys should either be booked via a licensed operator or direct with the driver and all journeys should be receipted. This would essentially mean any third party taking bookings on behalf of any vehicle will require an operator's licence.

PROVISIONAL PROPOSAL 50

The definition of operators should not be extended to include intermediaries.

50.1 If the intermediary is dealing only with licensed operators, then they would not require an operators licence, however where the intermediary is dealing directly with the driver of a vehicle then they should require an operator's licence.

QUESTION 51

Should "fit and proper" criteria in respect of operators be retained?

51.1 Yes operators should be vetted. The nature of their work gives them access to personal information including knowledge of customer's holidays/absences etc. All staff working for a licensed operator should also be vetted for the same reasons.

PROVISIONAL PROPOSAL 52

Operators should be expressly permitted to sub-contract services.

52.1 Yes, including across licensing authority boundaries but a record of who the booking was sub contracted to must be made.

QUESTION 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply?

53.1 Yes as per the response under proposal 48. Drivers should be allowed to accept bookings in their vehicles however a log or record should be maintained in case of incident or complaint so that there is evidence for the investigation.

PROVISIONAL PROPOSAL 54

Licensing authorities should no longer have the power to restrict taxi numbers.

54.1 Agreed. Number limitation is a restrictive practice which limits (or in many cases actually prevents) entrance to the market and then distorts potential earnings. Many drivers are forced to rent a vehicle from proprietors who own large quantities of Hackney carriage vehicles, which in turn restricts competition and ultimately limits passenger choice.

QUESTION 55

What temporary or permanent problems might arise if licensing authorities lost the ability to restrict numbers?

55.1 As any such change will be clearly proposed with a lengthy introduction time, owners of vehicles in areas that are number limited will be able to make arrangements to alleviate problems. I accept that there will be some hardship, but it has been clear since 1985 that a hackney carriage licence is not a secure asset.

QUESTION 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed?

56.1 This will probably not be necessary but if it is, there must be a short period of staggered entry and a ban on selling licences at a premium during that period.

QUESTION 57

***Should there be a separate licence category for wheelchair accessible vehicles?
This could involve:***

a. A duty on licensees to give priority to disabled passengers; and

b. a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles.

57.1 Under a two tier system, it is difficult to see how an incentive for providing wheelchair accessible vehicles could work.

57.2 Giving priority to disabled passengers would be very difficult to enforce, divisive and potentially problematic.

57.3 The local authority should be able to restrict some ranks for only wheelchair accessible vehicles, either on a permanent or part time basis.

QUESTION 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards?

58.1 No. any reduction is unlikely to balance the higher costs of accessible vehicles, and the costs would have to be borne by either the local authority or the other licensees.

QUESTION 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and for catering for the different needs of disabled passengers?

59.1 However, a Central Government grant or subsidy to encourage purchase of wheelchair accessible vehicles might prove effective.

PROVISIONAL PROPOSAL 60

The Commission does not propose the introduction of quotas for wheelchair accessible vehicles.

60.1 Quotas will not work. Part of the problem is that different disabled people have different needs; some people with lesser disabilities will only get into a normal un-adapted motor car, as many of the wheelchair accessible vehicles are high and difficult to get into. A quota would be likely to adversely affect the trade and without necessarily improving provision.

PROVISIONAL PROPOSAL 61

National standards for drivers of both taxis and PHVs should include recognised disability awareness training.

61.1 Agreed but it would need careful planning.

PROVISIONAL PROPOSAL 62

To better address concerns about discrimination, taxis and PHVs should be required to display information about how to complain to the licensing authority.

62.1 Information about complaining should be displayed for the benefit of all customers, not just the disabled. However, when different disabilities are considered, many different formats might need to be used – brail, large print etc. In addition, it should be contact information rather than an encouragement to complain.

QUESTION 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them?

Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help?

63.1 There is currently no requirement for a cruising taxi to respond to a hailing from anybody. Although at first glance this seems an attractive proposition, it would be almost impossible to enforce as an errant driver could argue that either they had not seen the prospective passenger, or that it was neither reasonable nor safe to stop.

63.2 Driver training and understanding of disabled people and their requirements is likely to be more effective in the long term.

QUESTION 64

Should authorised licensing officers have the power to stop licensed vehicles?

64.1 Again, this appears attractive but in practice would prove problematic. Local authority officers do not have the training or resources to stop vehicles in the way the police do. Closer working with the police, and a greater understanding by the police of taxi related crimes would assist.

QUESTION 65

What more could be done to address touting (the offence in a public place of soliciting persons to hire vehicles to carry them as passengers)?

65.1 Touting can be a serious problem at airports and town centres with an active nightlife. However, there is a fine line between aggressive advertising and touting.

65.2 Care should be taken in drafting any new touting legislation to ensure that it does not unintentionally catch hotel porters who stand outside the hotel where they work and ask customers whether they wish them to hail a taxi.

QUESTION 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules?

66.1 Yes, this a sensible solution for serious breaches where public safety is compromised and might prove an effective deterrent. In addition to unlawful plying or standing for hire by PHVs, any such power should also be available against unlicensed vehicles where the driver has no hackney carriage or private hire drivers licence to lose.

66.2 The local authority would need to be able to charge administrative, storage and legal costs before the vehicle was returned, with a maximum period for collection of the vehicle. Powers to dispose of the vehicle after that time would be essential.

QUESTION 67

Should licensing authorities make greater use of fixed penalty schemes and, if so, how?

67.1 Yes. Fixed penalty notices have proved to be an effective and efficient way of dealing with crimes in other fields. The local authority should have a discretion over whether a fixed penalty notice is used, and must be able to prosecute if necessary.

PROVISIONAL PROPOSAL 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas.

68.1 Yes, subject to the caveats over stopping vehicles mentioned in the answer to question 64.

QUESTION 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so, what would be the best way of achieving this?

69.1 Again, this sounds attractive and should be available. The risk is that one authority will end up effectively enforcing on behalf of another with no recompense. This needs to be considered.

PROVISIONAL PROPOSAL 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, the holder of the relevant licence.

70.1 Agreed.

PROVISIONAL PROPOSAL 71

The first stage in the appeal process throughout England and Wales – in respect of refusals, suspensions or revocations – should be to require the licensing authority to reconsider its decision.

71.1 As the decision (whether made by an officer or committee) as the decision of the local authority under delegated powers, requiring it to reconsider its decision seems perverse. In addition it could severely undermine confidence in the initial decision maker (whether officer or committee). In addition it is difficult to see the practical advantages of this proposal.

PROVISIONAL PROPOSAL 72

Appeals should continue to be heard in the magistrates' court.

72.1 Ideally taxi licensing appeals (and other licensing appeals) should be heard by a new licensing tribunal (modelled on Employment Tribunals) with a legally qualified chair and trained members. Appeals from there should be to the Licensing Appeals Tribunal, as per Employment Tribunals.

72.2 It should be noted that appeals against refusals to grant hackney carriage vehicle licences currently go to the Crown Court, but this is an anomaly when compared to all other cases (including refusal to renew a hackney carriage vehicle licence, or appeals against conditions attached to a hackney carriage vehicle licence) which go to the magistrates court – the appeal mechanism should be the same for all taxi related licences.

QUESTION 73

Should there be an outright right of appeal to the Crown Court?

73.1 No. Both the Licensing Act 2003 and the Gambling Act 2005 (the most modern wholly new licensing regimes) only allow an appeal to the magistrates court. The right of appeal again to the Crown Court is an anachronistic legacy from the days of Petty Sessions and Quarter Sessions.

Points not covered in the questions

Drivers Hours

No mention is made of drivers' hours. HGV and PSV drivers are generally subject to maximum working hours, yet hackney carriage and private hire drivers can work as long as they want. In many cases, this is for a long time after completing their maximum hours as a regulated driver in a bus or lorry. This is a major concern and threat to public safety and needs to be addressed in any new legislation.

Drivers Standards and licences

There is little consideration given to the question of driver suitability. The current test of holding a full driving licence for one year and then being a "fit and proper person" leads to enormous differences in the standards of drivers around the country. Some local authorities take a more serious view of all, or some, convictions than others. If the 2 tier proposal that any licensed driver private hire driver can drive any licensed private hire vehicle is adopted, without national standards for drivers, "licence shopping) i.e. finding the local authority with the lowest standards) is bound to occur.

This could be addressed in a number of ways.

Taxi driving could be an additional category on the DVLA licence (akin to PSV, HGV etc) based on an additional driving test (and the DSA Taxi Test already exists).

However in addition to drivers standards there is also the question of honesty, sobriety, attitude, health, local knowledge etc that needs to be considered.

Under the Licensing Act 2003, local authorities grant personal licences, with the above considerations addressed by the requirement for a licensing qualification and then a requirement not to have a live conviction for a specified list of criminal offences. This is a possible model although there are valid criticisms of this approach (some omissions in the list of offences, no power for the licensing authority to take action against the licence) which could be overcome.

Another option would be national guidelines regarding previous convictions, with local authorities retaining discretion as the current system. This could be allied to national requirements regarding health checks, disability training etc, but allowing local authorities to add additional requirements such as knowledge tests, spoken English tests and so on.

Powers for the licensing authority to suspend and/or revoke a drivers licence must be retained (the need to be able to suspend a licence following serious allegations, and pending full investigation is essential, and has just been outlawed by the ruling in *R (app Singh) v Cardiff City Council* [2012] EWHC 1852 (Admin)).

There also needs to be a mechanism for sanctions to be applied for lesser transgressions which do not warrant suspension or revocation. This could be based

on the penalty points system (again addressed in the *Singh* judgment and found to be lawful, if correctly applied).

Finally, consideration of how long a drivers' licence lasts needs to be considered. Currently a licence can last 3 years although a lot of local authorities only grant annual licences. That system seems sensible to maintain.

Licence fees and enforcement costs

Although the consultation document states that it would be premature to address the question of licence fees (Para 19.30) it is a vital point for licensing authorities.

Whilst taxi licensing is not covered by the EU Services Directive (see EU Services Directive 2006 - http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_376/l_37620061227en00360068.pdf implemented by The Provision of Services Regulations 2009 (SI 2009/2999)), and it remains to be seen whether enforcement costs generally can be recovered via the licence fee, it seems sensible to make distinction between administration and enforcement, but this also needs to take into account additional costs such as rank provision

Cost recovery seems to be the fairest way to set licence fees. This should be based on full cost recovery with no limit to enable local authorities to tailor their service to the needs of the licensees.

Breach of Conditions

If there is a power to attach conditions to licences (and that is proposed), there needs to be a sanction for non-compliance. Most other licensing regimes make breach of condition a criminal offence, and it is suggested that breach of taxi (and/or private hire if 2 tier licensing continues) should be a crime.

Byelaws

No mention is made of the continued existence of hackney carriage byelaws. Improved prime legislation allied to a criminal offence for breach of licence conditions may render the concept of byelaws obsolete in this field.

Alternatively, if hackney carriage byelaws continue, consideration should be given to private hire byelaws (if 2 tier licensing continues) or taxi byelaws in the case of single tier licensing.

Conclusion

It can be seen that many of the questions raised and problems that currently exist could be reduced or eliminated by a single tier licensing system. Ultimately, the purposes of the licensing of hackney carriages and private hire vehicles is to ensure that vehicles, drivers and those who arrange journeys for passengers (operators, but the net needs to be wider than the current position) are safe and suitable for the purpose.

Having two types of vehicle which effectively do the same thing (take people from where they are to where they want to go) is confusing for the public, and leads to a great deal of regulation and enforcement which could be used more effectively against unlicensed vehicles, drivers and operators, and dangerous vehicles, and other licensees who do not meet the required standards.

The arguments for maintaining the two tier system are not convincing and seem to be based upon vested interests.

To meet the aims of the Law Commission's terms of reference (modernisation, simplification, deregulation, reduction on business burdens and increased economic efficiency.), single tier licensing, accompanied by the other reforms detailed above, must be introduced.

James Button
James Button & Co., Solicitors



10th September 2012

From: James Button [REDACTED]
Sent: 10 October 2012 10:07
To: Uguccione, Jessica; Patterson, Frances (Law Commission); Percival, Richard; Gray, Hannah
Cc: TPH
Subject: RE: Expert Legal Group on Plying for Hire

Importance: High



E-Mail

10 October 2012

Dear Jessica

Sorry this is a day late, I hope it still helps. I have done this informally by email as I think that might be the easiest way for you to cut and paste it for onward transmission. If I am wrong, please let me know and I can send it in another format.

I think that there is a preliminary question which needs to be addressed, and that is this:
Is the proposed definition of “plying and standing” or “ranking and hailing” simply an artificial means of perpetuating the two tier system?

The reason I raise this is because it influences the discussion.

If the two tier system survives, clearly the test of “plying or standing” will be determinative of whether a vehicle and driver is acting lawfully or not, and accordingly, in my view, must be a simple test. This is necessary to ensure both understanding by those who might commit the offence, and ease of enforcement.

Any definition that is overly complex or technical will lead to either problems with compliance or alternatively, a reluctance to enforce.

Looking at the proposed three elements (Ranking & Hailing, A Statutory List of Factors Suggesting Plying, and Legitimate Activities of Private Hire Vehicles) in order:

Ranking & Hailing

“Hailing” seems reasonably clear – a response to a prospective customers signal. However, this can be complicated if the prospective customer has pre-booked and is indicating his presence to the PHV he suspects he has booked.

Ranking is more problematic. It seems sensible that on HCs can use HC stands (as now), but the question of parking and waiting is complex. It is difficult to see how it can be separated from the intention of the driver, with the (current) enforcement and evidential problems associated with this.

The “exhibition” of the vehicle seems overly simplistic. PHVs must be able to wait at a safe, lawful location for their next booking – to condemn them to drive all the time, or hide away from sight is unrealistic and impossible to achieve.

The problems encountered with pedlars certificates and Street Trading enforcement show the problems of offences based on a period of time spent stationary, which might otherwise seem an attractive proposition for the concept of “ranking”.

Certainly, if a driver of a PHV (or unlicensed vehicle for that matter), who is stopped, or who responds to a signal from a prospective passenger, takes a passenger with no pre-booking, then that seems a clear offence, but there may remain enforcement problems, not least the forthcoming restrictions on the uses of RIPA by local authorities.

A Statutory List of Factors Suggesting Plying

The suggestions from Paterson’s (para 1.127) addresses some of the issues I have already mentioned, but it is difficult to see how the problems already identified can be overcome.

If PHVs are to carry identification to enable the public to safely get into a licensed vehicle, and PHV travelling could be accused of “inviting and attracting customers for immediate hire by driving around”.

Legitimate Activities of Private Hire Vehicles

Again, this will depend on what the outcome of the discussions above determine, but as it stands, the legitimate activities must include being able to travel to a pre-arranged booking, travelling somewhere else after a pre-arranged booking has been completed, and waiting lawfully on the highway and elsewhere for the next booking to be communicated to the driver.

I hope this helps and I look forward to seeing you next week.

James

James Button
Principal



Regulated by the Solicitors Regulation Authority 197525
James T H Button, BA, Solicitor, MCI Arb, MIoL – Principal.

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From: Rob Evans [REDACTED]

Sent: 10 September 2012 22:26

To: TPH

Subject: Classic cars for wedding hire

To whom it may concern,

I would like to add my voice to those who have already done so, about the concerns regarding the proposals for having to license classic cars, and their drivers/operators.

If these proposals go through it will put me out of business – it is as simple as that. I have bookings going into 2014, and generally take bookings 2 to 3 years ahead so how would I explain to clients who have made a booking that the car of their dreams is no longer available for their special day?

This legislation is draconian – why tamper with something that works?? All of our cars are fully insured for weddings only – we do not get involved in proms or any other type of hire. We also have full Public Liability insurance. We declare our earnings, we provide a service that is integral to a happy and special day for both bride and groom. Our cars are all MOT'd, even with the now no longer required MOT for these types of vehicle, we shall continue to MOT – our cars are therefore confirmed safe. Even though I service and maintain the cars myself, it is always good to have a set of fresh eyes review the car.

If this legislation is approved, then I would expect many classic wedding car businesses to close down which would mean companies associated with or relating to this business also closing down due to the huge reduction in demand for bodywork, servicing, parts sales and manufacture.

I would appreciate an acknowledgement of my email, and what you intend to do about addressing my concerns.

Many thanks.

Best Regards,

Robert Evans

Classic American Wedding Cars

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From: jon ninnis [REDACTED]
Sent: 10 September 2012 22:28
To: TPH
Subject: taxi review

The law does need updating but not a massive change on the scale proposed.

Two tier system should remain.

Private hire drivers should have topographical knowledge of the area they are licensed in as majority of work would mainly be in that area, sat-nav should be an assistant not a necessity!

Vehicles and drivers should work mainly in the area they are licenced.

National standards would mean licensing officers could enforce against vehicles licensed in any area.

Local authorities are best placed to know the local need and should be able to restrict licence numbers. Also should be able to have mixed hackney fleet as many elderly customers and disabled non wheelchair users find the WAV's hard to enter.

Controlled growth should be allowed as per local need determined by unmet demand surveys. Problems of removing limits are over-ranking, added congestion and reduced vehicle maintenance due to less earnings leading to potentially unsafe vehicles. Also drivers having to work longer hours to make a living maybe leading to tiredness.

Licenses having a value means there is a real investment in the trade both in vehicles and a willingness to provide a quality professional service to the customer rather than part time "cherry pickers" who only want some extra pocket money at weekends and don't really want to provide a professional, consistent service. Extra licenses could mean a loss of the career taxi driver meaning quiet times are not covered leading to reduction of service.

Should be able to create/remove zones depending on local need.

Private hire should have a maximum fare the same as hackneys to prevent overcharging and have some consistency for the customer.

Driver and vehicle standards should be in primary legislation to guarantee a minimum level across the country.

No peak time licenses as this is unenforceable and open to abuse

Taxi should not have to record pre-booked fares.

Licensing officers should only be allowed to stop licensed vehicles with police assistance.

Taxis should be allowed to advertise the maximum fare for certain popular destinations ie local campsites + hotels as many customers are unaware 4 people in a cab is often cheaper than a bus (certainly in my area).

Smaller Zones mean drivers, licensing officers and even customers can become familiar with each other and make enforcement easier.

All drivers should have basic training i.e NVO or similar covering disabled, child protection etc.

Jonathan Ninnis
flat 2
Central apartments

Tregenna Place



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Law Commission Consultation Paper No 203

REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

A Consultation Paper (taxi-phv.regulation@lawcommission.gsi.gov.uk)

The potential taking away of the current exemption for weddings and funerals

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation.

Dear Sirs.

As a professional wedding car operator, I write to strongly object to the proposed possibility of taking away the current exemption for wedding and funeral vehicles.

- 1 The law commission has offered no evidence of any misdemeanour being committed by any Wedding or Funeral car company in relation to the proposed changes. So wedding and funeral vehicles should remain exempt and therefore still in primary registration.

Further to the above, a distinction needs to be recognised between the following groups of vehicles, **Wedding and Funeral cars** Wedding cars in the main only operate in a very short summer season between the hours of 9-5pm Friday-Sunday

Funeral Cars operate between 9-5 Monday– Friday. both the above should be exempt.

Whilst in a minority of cases some need to be made aware that they cannot attend any prom nights Or collect people from airports on their return from honeymoons E.t.c.

As this is definitely Private hire work.

(and needs to be left to Private hire taxis and others as per the list below)

- 2 The converse of the above is that vehicles such as Stretched hummer type of cars And Novelty vehicles such as Fire Engines, Tuc Tucs, E.t.c. Which are capable of working Day and night seven days per week, attending fun nights, hen and stag nights, prom And other special occasions, plus the occasional wedding, should all be in the private hire sector, and as such controlled by council enforcement.

The proposal on paper 203 if brought in would also mean that wedding and funeral cars are not operating/competing on a level playing field and as such could be deemed as unfair competition.

Mr A Harney

Horgans wedding Cars

From: james scott [REDACTED]
Sent: 10 September 2012 22:39
To: TPH

Subject: proposed legislation re wedding car hire

Dear Sirs,
the proposed increased legislation re licencing/operation/testing of older cars used for wedding hire is misdirected and totally unjustified.
Most older vehicles used for this purpose are immaculately maintained cherished classics which cover less than 2000 miles per year and cannot be viewed in the same light as everyday taxis, which are often used around the clock and run into the ground.
The proposed action is in direct contrast to recent moves by the UK government which mean that cars built prior to 1960 no longer need an annual MOT test...this is ludicrous. How long will it be before someone is killed by a bodged-up old banger, promoting a backlash against the responsible old car movement?
Double standards! Surely wedding car hire is much too small a business sector to warrant any further legislation?
Jim Scott, Approved Driving Instructoe and classic car enthusiast.

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Law Commissioners
|
Steal House
|
11 Tott Hill St
|
Greater London
|
SW1H 9LJ

4th September

Dear Sir/Mdm

With reference to your proposals to change taxi license laws and requirements, here are my comments.

Already we have more than 1100 cabs in Manchester. With the downturn we are all struggling to make a living. If we can't make a decent living, standards to the public will drop. We need to find a way to make the trade stronger and services better, to keep up with modern times.

1. 'Deregulation' as you call it of hackney numbers will drive a coach and horses through everything we need to do to improve taxi services. How can we invest in new vehicles if our income is cut in half? And where will we rank up? Its hard enough already when its quiet. Do you expect us just to keep driving round and round and what will that do for traffic congestion in the city centre?
2. My mate works in Liverpool. It's less than an hour from Manchester and roughly the same size. Apart from the football teams being also-rans (!), what is the difference between the two cities? Nothing really. So how can it be that they are able now to choose from different supplier of modern cabs (as can Salford, Bolton, etc too) yet Manchester City Council is allowed to say "No, we like the iconic black cab so we're keeping a nineteenth century rule so that LTI can keep the market in Manchester." The turning circle is utter nonsense when we have modern vehicles with power steering that can easily do three point turns on the odd occasion you might need to.
3. You need to think about disabled people too. Taxis are an important service for people in wheelchairs etc but if you've ever tried fitting a wheelchair in a TX cab then you'll know that it just was never properly designed to do this. So the poor wheelchair user ends up sitting sideways while we have to worry about what would happen if there was a bump - would we be the to blame? Or would it be the Council that makes us use these unsuitable vehicles?
4. Money's tight enough already without outside cabs coming in, saying they've just dropped off then nabbing a sly extra fare. We've

also got Manchester private hire sneaking about, pretending to have a booking but really just waiting for someone to jump in.

Come to Manchester and you'll soon see that we have enough cabs already, just not the right cabs. Please use the law to put us on a level playing field with other cities like Liverpool, Leeds, Birmingham, etc.

Thank you for listening.

A handwritten signature in black ink, appearing to read 'Brian Ogilvie', with a large, stylized flourish at the end.

Brian Ogilvie



PLATE NUMBER (MANCHESTER HACKNEY) 1035

The Law Commission
Steel House
11 Tothill Street
London SW1H 9LJ

31.08.2012

Dear LC

TAXI LAW IMPROVEMENTS

I have read about your review looking at taxi laws and regulations and hope you will listen to what we have to say here in Manchester. Manchester is one of the busiest cities (city centre more congested than London) and biggest fleets (second largest, I think).

What we all want to know when we USE a taxi is that's comfortable, safe and good value for money. That's not what's happening and things are set to get worse, rather than better.

COMFORT

Do you realise that in Manchester we only hardly have a choice of vehicles? Unless you can afford £40-odd grand for a Merc the only other thing is a TX from LTI. Have you ever driven one? Honestly these must be the oldest, most uncomfortable sheds on the road. Seriously, the driver is crushed in and sits at an angle to the foot peddles; a shift doing this and my back aches, every time. And customers get an out-dated old cab that would have disappeared decades ago if it wasn't for monopoly protection from local councils and the phoney "turning circle".

WE NEED AND DESERVE A FAIR CHOICE OF VEHICLES, OR THE TRADE WILL STAY STUCK IN THE PAST.

SAFETY

You might want to please Boris and say the London Conditions are fine but are you made to drive a cab all day with NO PROTECTION AIRBAG? Honestly, just go and check if your car has a driver airbag? Unless it's a vintage show car, then 100% yes it does. Does my TX – NO! And what about wheelchair users? Can you get them properly secured in a TX? NO!

VALUE FOR MONEY

TX4 - £35 grand. Merc - £40 odd grand. Best cab for the job? Neither of them! Why is it that the taxi market in Manchester is allowed to be turned into a monopoly by a set of rules made up in London in the 1800s? How on earth can this be legal in the 21st CENTURY? Everywhere round about

Manchester had BETTER / CHEAPER / MORE EFFICIENT / MORE RELIABLE modern hackney vehicles. Manchester drivers deserve the same.

GETTING WORSE

Most of all things are only going to get even worse for us BECAUSE YOU WANT TO OPEN THE FLOODGATES to more hackney licenses. Apart from killing the cab trade this will kill traffic in Manchester City Centre. Its already hard to find space to rank up. Putting on even more cabs without adding more rank space will be irresponsible. And the council isn't going to do it.

The LAW should be KEPT so that cab numbers are matched to demand and the law should be CHANGED so that the turning circle myth can't be used for councils to prevent us buying better / better value vehicles to do our job.

YOURS FAITHFULLY

A handwritten signature in black ink, appearing to read 'Martin Burke', written in a cursive style.

Cllr Martin Burke ~

MANCHESTER HACKNEY DRIVER BADGE NUMBER 1088