

From: DAVID GLAHOLM [REDACTED]

Sent: 04 September 2012 08:53

To: TPH

Subject: Taxi Reform

I wish to support the idea of deregulation.

My local authority (Torridge District Council) refuse me a hackney licence although I wish to see more cabs suitable for wheelchairs.

As the cost of a wheelchair friendly vehicle is high the only way its a viable proposition is to have a hackney licence to generate income.

Their policy is costing jobs as I could employ other drivers.

David Glaholm
[REDACTED]

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From: [REDACTED] [REDACTED] Sent: 02 September 2012 23:03 To: TPH Subject: Proposed new Wedding car regs
Follow Up Flag: Follow up Flag Status: Red Hi are you MPs trying to kill this country stone dead ,you promised less
red tape, this will kill many small companies why don,t you all learn to serve your people ,not find ways of putting
more stealth taxes on us so you can give the money to all the lazy idle people that bleed the tax payer dry. Bob Wilding
Sent from the Bob4 mobile terminal contact 24hrs

From: Bates, Phil [REDACTED]

Sent: 03 September 2012 14:16

To: TPH

Subject: Electronic hailing of a Hackney carriage

After seeing your presentation at Southampton last week I thought you might be interested in a proposal sat on my desk at present.

A local company is wishing to develop a mobile phone App that will electronically hail a Hackney Carriage.

Basically Hackney drivers will pay to sign up to the app. Customers will use the app to 'electronically hail' a Hackney. The question it raises is where does this Electronic Hail take place? Is it where the customer is or the Hackney on receiving it?

For example, Customer is in Local Authority (LA) A but by the boundary of LA B. customer uses the app in area A and a Hackney in area B is the nearest and responds. So we have a Hackney licensed in area B picking up a customer in area A. Is he licensed to do this? There is no booking as per private hire regs. How do authorities monitor such activity to ensure compliance? I would suggest this was an unlicensed transaction hail takes place where the customer is or at least the pick up place in case the customer is on the move when making the request i.e. on a train to collect from the station.

Phil Bates

Licensing Manager

Legal, HR and Democratic Services

Southampton and Eastleigh Licensing Partnership

Southampton City Council

[REDACTED]

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To	Law Commission Steel House 11 Tothill Street London, SW1H9LJ	Date	25 March 2013
		From	Phil Morton
		Telephone	██████ ██████
Subject	LAW COMMISSION TAXI CONSULTATION		

Following consultation with other Association of Greater Manchester Authorities (AGMA) licensing authorities, the following response addresses a number of questions contained within the consultation document produced by the Law Commission and includes responses from the AGMA group and any additions or further comments made by Salford Licensing, Some answers may differ from those responses suggested by the AGMA group and represent the views of Salford 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 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)

AGMA authorities and Salford licensing disagree with this proposal. The general public consider a "taxi" to be a "taxi" regardless of whether it is a hackney carriage or a private hire vehicle. A one tier system would assist the public in identifying a licensed vehicle, and make enforcement easier by removing the confusion currently associated with a two tier system.

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 group and Salford agree with this. London should be included within the reform, the circumstance and difficulties experienced with the industry are the same nationally.

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)

AGMA and Salford agree with this. The large number of different types of vehicle currently licensed shows that the suitability of vehicles is not restricted to the traditional style "taxi" vehicle. What is more important is the identification of vehicles as licensed taxis.

This may be by signage, colour etc, not by make 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)

The AGMA group don't agree to restrict the licence to motor vehicles only; there are other modes of transport that can be used for the carriage of passengers for hire and reward and these need to be included within the licensing structure.

Salford licensing **does not** agree with the AGMA response and believe that licenses should be restricted to motor vehicles only. This would mean that standards of safety, testing, wheelchair access etc are maintained and there is no confusion about what is and is not a taxi.

Other forms of transport should be subject to separate provisions i.e. rickshaws water taxis etc. If other vehicles such as rickshaws were licensed as taxis, this would create issues concerning ranks, testing, safety and wheelchair and disability access etc.

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 AGMA group and Salford agree that the limit of eight passenger seats should remain, however there are concerns regarding the gap between current quality levels of public service vehicles and private hire and hackney carriages. Public service vehicles should be tested and maintained to the same standard as taxis if they are being used to provide contracted work such as school transport provision etc.



Provisional proposal 6

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

The AGMA group and Salford agree this should no-longer feature due to confusion.

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 AGMA group and Salford agree and would welcome a quick resolution in this area. What is defined as a novelty or specialist vehicle is very much open to local interpretation and there is inconsistency in standards and testing.

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 group and Salford agree, however there does need to be a very clear definition within the legislation. There are some concerns with individuals who transport the young and vulnerable where no CRB/background or medical checks are completed and statutory guidance is needed.

Question 9

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

(a) carpooling; and

a) The group and Salford does not think this group should be included

(b) Members clubs? (Page 170)

b) the group and Salford believes this group should be included This will remove the anomaly currently in place which allows members clubs to act as private hire operators without regulation (This was highlighted in the Warrington Pink Ladies example)

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)

The group and Salford agree.

Provisional proposal 11

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

The group agree they should not be excluded. However Salford thinks that they should be treated as a special or novelty vehicle if they are used solely as wedding and funeral cars. This would allow older vehicles to remain in use for that purpose only without having to leave the fleet at 7 years old

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 group and Salford does not agree that the contract exemption should be reintroduced.

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)

The group and Salford 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)

The group and Salford does not agree there is a case for special provisions. This provision seems amply served by buses and PCV's

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;

a) The group and Salford agree but this is subject to the retention of a two tier system

(b) A non-exhaustive list of factors indicating plying for hire; and



b) The group and Salford agree

(c) Appropriate accommodation of the legitimate activities of private hire vehicles.
(Page 181)

c) The group and Salford agree

Provisional proposal 16

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

(Page 181)

There is some uncertainty what this means, as the use of technology to order the services of a taxi would mean that the vehicle had been pre-booked, and would then become in essence a private hire 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)

The group and Salford believes that this would not be applicable if a one tier system is introduced, however if a two tier system is retained then for private hire the change in definition from “plying for hire” to “arrangements made in a public place” would assist with clarifying and understanding the offence.

Provisional proposal 18

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

The group and Salford agree with the current definition, but would like to add only if the passenger can be conveyed safely.

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 group and Salford agree if the two tier system is retained, but there is a real need to ensure up to date guidance and regulations are regularly provided to cover advances in 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)

The group and Salford agree but add that the vehicle must only be driven by a licensed private hire or hackney carriage driver and that the understanding remains that “once a private hire, always a private hire”

. 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)

The group and Salford agree.

Provisional proposal 22

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

The group and Salford do not agree. The general public regard a taxi as both a hackney carriage and a private hire vehicle. However, if the two tier system is removed then there is no need to have separate definitions.

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 group and Salford don’t agree that private hire should be able to use the terms taxi or cab. The two tier system if retained should ensure that the distinction is made between both parts of the trade.

CHAPTER 15- A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

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

The group and Salford agree.

Provisional proposal 25

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



The group and Salford agree.

Provisional proposal 26

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

The group and Salford 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)

The group and Salford disagree; there is a need for local input both in training and in the knowledge base for both private hire and hackney carriage.

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)

The group agree. However, we would only support National Standards for Private Hire Vehicles in Salford if the standards were as high as our current standards for the age and emissions of vehicles so that the quality of service can 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)

The group and Salford does not feel there would be any obstacles.

Question 30

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

The group and Salford doesn't agree that there should be different standards for hackney carriage and private hire service.

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 group and Salford does not agree, the powers should cover all aspects of the industry.



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 group and Salford 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 group and Salford agree and suggests advisory/technical groups would have a useful input.

Provisional proposal 34

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

The group and Salford agree that LA should retain power to set local standards.

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.

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)

The group and Salford agree that the LA powers should be on a statutory footing. This ensures national consistency.

Provisional proposal 38

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

The group and Salford agree on the option of combining areas.



Provisional proposal 39

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

The group and Salford disagree.

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 group and Salford disagree. LA should not have powers to issue peak time licences. The concept would be unworkable and very difficult to police. The issue of insurance being invalid when the prescribed time expires would put drivers and passengers at risk.

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality;

The group and Salford agree PHO's should be allowed to accept/invite bookings outside their locality.

nor to only using drivers or vehicles licensed by a particular licensing authority. (Page 198)

The group and Salford disagree the PHO should only use drivers and vehicles from the same LA. This would ensure local standards are maintained and controlled.

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 group and Salford agree.

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares.

The group disagree, however Salford agrees that if a two tier system is to be maintained then LA's should retain control over setting hackney carriage fares

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

The group and Salford agree; however the fares must be transparent and clear to customers, setting out what the fares are and all vehicles have calibrated meters.



Question 44

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

Salford disagrees. The setting of fares using a controlled and calibrated meter means that there is no confusion over what the maximum fare is going to be. A lower fare can be agreed with the customer, but the maximum should be no higher than the meter fare.

Chapter 16 – reform of driver, vehicle and operator licensing

Question 45

Should national driver safety standards such clear to customer 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)

b) The group and Salford agree this should be included in 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. (Page 204)

The group and Salford agree, but this should only apply to vehicle owners, not operators.

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) The group and Salford agree this should be included in general powers.

Provisional proposal 48

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

The group and Salford agree; however this is subject to the retention of the two tier system.

Question 49



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

The group and Salford agree that hackney carriage radio circuits should be licensed to enable accountability for pre booked journeys in-line with that of private hire.

Provisional proposal 50

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

The group and Salford agree.

Question 51

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

The group and Salford agree it should be retained.

Provisional proposal 52

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

The group and Salford agree PHO's should be permitted to sub-contract.

Question 53

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

The group and Salford agree that record-keeping should apply.

Chapter 17 – reforming quantity controls

Provisional proposal 54

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

The group and Salford agree.

Question 55

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

Impact on ranking provisions; road/traffic infrastructure problem with potential increase in numbers. However, provisions should be made in advance to ensure such issues do not cause major problems. This was the case in Salford when de-limitation was introduced in 2010

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)

Salford disagrees. The market will find its own level. We did not experience a huge surge in numbers when Salford de-limited.

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)

The group and Salford agree; but the provision should exist within the private hire and hackney carriage legislation.

Question 58

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

The group and Salford disagree; this could be reflect through tax relief e.g. 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)

The group has no further suggestions.

Provisional proposal 60

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

The group note this statement; however would ask that local discretion for quotas on wheelchair accessibility apply in consultation with appropriate groups.

Provisional proposal 61

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

The group and Salford agree; there is a real need to provide this type of training. The NVQ in Passenger Transport addresses this need.



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)

The group and Salford agree; and many vehicles within the AGMA area already provide contact details within the vehicle on the vehicle identification.

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 group are unable to provide a resolution; this is a very difficult matter to prove and provides real enforcement issues.

Chapter 19 – reforming enforcement

Question 64

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

The group and Salford agree AO's should have the powers.

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 group suggest there are a range of offences where fixed penalties could be issued this includes touting.

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)

The group and Salford agree provided that specific guidance is given and cost could be recovered.

Question 67

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

The group and Salford agree and suggest fixed penalties could be used for breach of conditions, offences under private hire and hackney carriage legislation and some road traffic act offences.



Provisional proposal 68

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

The group and Salford agree that EO's (AO's) should have the power to enforce, in particular when dealing with vehicles and the suspension of vehicle licences.

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)

The group and Salford agree and this could be achieved with inter-authority authorisations/authorised officer by primary legislation.

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 group and Salford 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)

The group and Salford disagree.

Provisional proposal 72

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

The group and Salford agree.

Question 73

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

The group and Salford disagree.





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IN Salford

From: Samuel, Jackie on behalf of Communications Law Com
Sent: 04 September 2012 12:11
To: Gray, Hannah; Uguccione, Jessica
Subject: Deregulation

From: julia thompson [REDACTED]
Sent: 04 September 2012 11:56
To: Communications Law Com
Subject: Deregulation

TORBAY COUNCIL PLATE 98
25 YEAR HACKNEY OWNER

Mr.RG.THOMPSON
[REDACTED]

LAW COMMISSION
STEEL HOUSE

1. Why not leave decision with local Council?
2. How can the local council maintain the taxis when there are only 50 rank spaces now and we have 164 taxis. With proposed deregulation where would we park when waiting for work?
3. What tariff would be on the meter and how would this be policed?
4. The loss of local knowledge as to rouge drivers.
5. Illegal parking as not enough rank space.
6. More hoax drivers and sex pests if not regulated.
7. How can a driver fom Birmingham have the local knowledge of Torbay and vice versa?

Yours Sincerely,

Robert Gray Thompson

4th September 2012

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From: T P C [info@notjustacar.com]
Sent: 04 September 2012 13:25
To: TPH
Subject: Taxi and Private Hire Consultation

Weddings and funeral cars should continue to be exempted from the burden of Government red tape

Rgds

Harley Buckner

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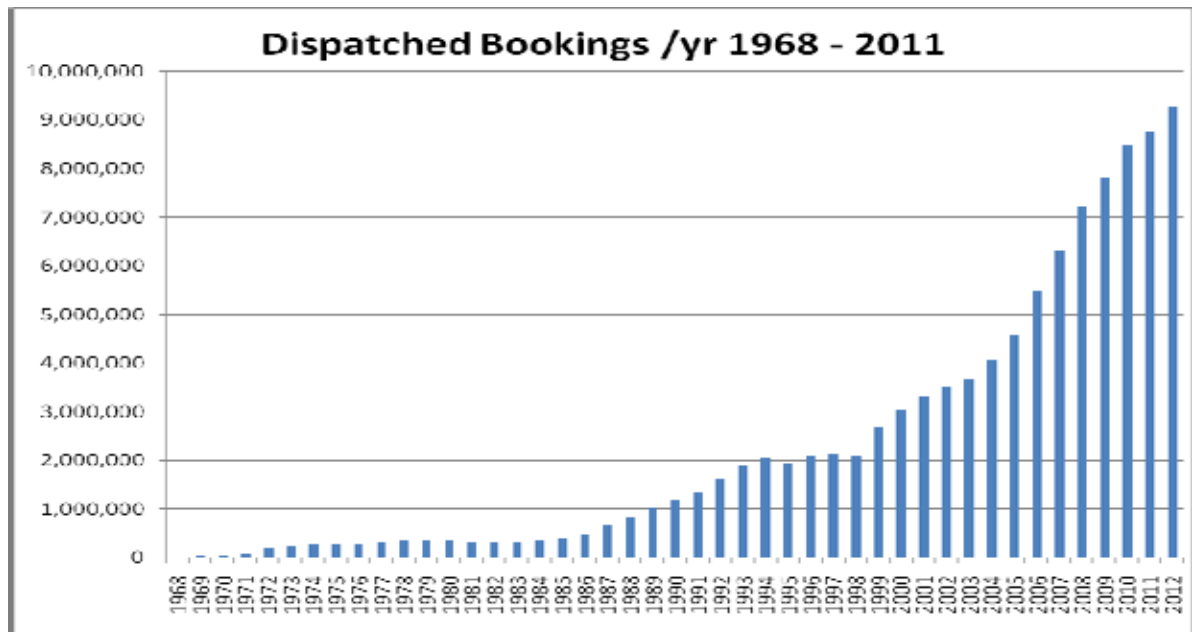
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DELTA TAXIS (D.E.L.T.A. MERSEYSIDE LTD) RESPONSE TO LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

FOREWORD

Before responding to the taxi consultation paper, we would like to congratulate its authors for producing such a comprehensive and meticulous evaluation of our industry's current state of play. For a trade unceasingly distorted by political and commercial agendas, Consultation Paper No. 203 provides a rare and refreshing critique, scrutinising not only the suppliers, but the consumers our industry exists to serve.

Unfortunately, when it comes to such consumers, we anticipate little if any engagement from them throughout this consultation. However, as a business that has grown from a single driver in 1968 into one of the world's busiest taxi offices, I believe Delta Taxis (Merseyside) is something of an authority on what consumers want.



The above graph shows four decades of steady, continuous growth in consumer demand for our particular taxi service. With up to 34,000 bookings a day, consumer confidence in our brand is at an all time high.

Compare this with our closest commercial competitor, the Liverpool licensed Hackney Carriage trade. We measure consumer confidence in their brand by their plate value. In 2008, Liverpool hackney carriage plates were trading at £58,000.00. Today they are trading at £26,000.00. With 1,426 vehicles, their overall book value has therefore fallen by £45 Million in four years (the result of a severe haemorrhaging of consumers).

The Sefton private hire / Liverpool hackney carriage juxtaposition just goes to prove that Delta's "business" policies are more in tune with consumer demands than the "political" policies of Liverpool's hackney carriage trade. Taxi legislation needs to be simplified, made clearer and brought up to date, but the ultimate objective must be to serve the consumer. I therefore hope that our proven track record in pleasing customers lends some credibility to the assertions made throughout our responses of how best to serve the consumer.

Any figures we quote can be backed up by reports on request.

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

As highlighted within your report, market forces have already proven sufficient in themselves for the regulation of price and quality within the pre-booked market. Hackney Carriage vehicles engaged by hailing or ranking however are not subject to the same market forces and therefore require additional regulatory control in order to ensure their monopoly supply remains within parameters deemed acceptable by each local authority. Two separate tiers would allow for two separate levels of regulation.

Furthermore, pre-booked customers and drivers can be queued virtually within a data system whereas ranking and hailing requires hackney carriage vehicles to be physically present when queuing on ranks or cruising the main carriageways. Such rank and carriageway space is finite, and at a premium, thereby justifying in some cases a cap on the number of hackney carriage vehicles vying for such limited real estate. Two separate tiers would allow for two separate policies in respect of locally imposed quantity restrictions.

Finally, private hire operators require control of their drivers in order to maintain the current high standard of service. If private hire drivers were permitted (or compelled) to respond to hails from the street, private hire customers waiting further down the road would suffer longer delays as a result.

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

London operators currently enjoy an unfair commercial advantage over operators located outside of London, due to London's legislation allowing for sub-contracting / sharing of pre-bookings with other operators. The Department for Transport has already highlighted this anomaly. One piece of legislation governing ALL operators, both inside and outside of London, is the only way to provide future parity for the pre-booked trade.

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

Safety is paramount for all modes of transport available for hire on the public road. Such drivers and vehicles should all be subject to suitable regulatory conditions and enforcement.

Question 4

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

NO

Who can predict how vehicles will be propelled in the future, or what type of licence they will require to operate them? Future-proof legislation should cover all possible eventualities.

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)*

NO

Such exclusions remain open to abuse and exploitation by allowing sub-standard drivers and vehicles to compete unfairly against bona fide regulated service providers. Freedom Of Information requests from the National Private Hire Association have already highlighted local authority tenders being awarded to high-risk ‘volunteers’ who claim excessive expenses in exchange for drivers and vehicles deemed unfit for purpose by the regulated industry.

Furthermore, I find it difficult to accept that publicans or hotel operators for example are being genuinely altruistic in providing ‘free volunteer rides’ to and from their establishments. It would seem more likely they are off-setting a loss leading and unregulated taxi service against increased profits elsewhere within their business.

Another undesirable implication of such exclusions can be seen with volunteer church groups. An elderly lady volunteering to look after children in a church hall might require a CRB check, where the same checks might not apply to the young man who volunteers to drive the children to and from the church hall.

If the Law Commission does feel it is appropriate to allow for some sort of exclusion to accommodate “genuine volunteers” then perhaps the onus should be on the volunteer to prove they qualify for exemption, rather than the onus being on the regulator to prove that they don’t.

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.

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

Consumer protection is expected when paying for a red Ford Focus to take you to church. Why should a white Rolls Royce or a black limousine be any different?

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

Its introduction was ill conceived and the regulated industry couldn't rest until it was removed.

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)*

AGREE

Additional consideration should also be given to promoting healthy competition so that consumers benefit. Take for example the current situation at Liverpool John Lennon Airport...

Liverpool Hackney Carriage vehicles are charged a flat-rate £1.50 per visit, irrespective of how long they wait for their customers, and they can collect their fares from right outside the terminal exit. Private Hire vehicles have two choices... the multi-storey indoor car park or the 'express pick-up / drop off' outdoor car park on the ground floor. The multi-storey is the cheaper of the two private hire options (£2 for up to 20 minutes then £4 for between 21 and 40 minutes) but it involves quite a long trek for tired passengers who may have luggage and children to contend with. The nearer option is the express car-park on the ground floor but this costs our drivers £2 for between 5 and 10 minutes, £4 for between 10 and 20 minutes, and £6 for between 20 and 30 minutes.

Our drivers typically average 20 – 25 minutes per pre-booked visit, as they have to find a parking space, walk into the terminal, wait for their customer to clear customs, identify them, bring them back to the car, load their luggage and then walk to and from the parking payment terminal inside the multi-storey block before exiting the express ground-floor car park. For such visits the airport charges us £6. Compare this with the hackney carriage drivers who for unlimited time spent outside the front door of the terminal are charged only £1.50.

Our records confirm we processed 1,656 bookings for collection at Liverpool John Lennon Airport in the month of April 2012, for which the airport charged our passengers an estimated £10,000... but had our passengers chosen a hackney carriage taxi instead they would only have been charged £2,500.00. The airport is therefore applying dissimilar conditions to equivalent transactions with other trading parties, placing us at a competitive disadvantage, and conflicting with section 18 c) of the Competition Act 1998.

We have submitted an official complaint to the Department for Transport (via the National Private Hire Association) but still await an official response. In the meantime, visitors to Liverpool’s John Lennon Airport are forced to pay high parking fees for cheap private hire taxis, or low parking fees for expensive hackney carriage taxis, stymieing consumer-friendly market forces.

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

Successful private hire provision relies on vehicles being able to ‘wait in the wings’ of imminent customers. Historical data is so comprehensive nowadays as to provide private hire drivers with accurate prospects as to which areas need the most cars in the coming minutes...

Statistics							
File View Actions							
Filter							
City		Fleet		Displaying:			
Liverpool		Delta Taxis					
No	Name	Vac	Busy	JbT	Old	L60	LWk
22	Bank Hall	11	47	1	0	89	109
35	Anfield	20	37	1	1	97	88
28	Central North	10	18	0	0	90	78
21	Bootle	12	31	3	0	69	78
23	Walton Hall	5	22	0	0	66	73
41	Norris Green	7	26	0	0	59	64

The above screen-grab shows the kind of information made available to our drivers via their in-vehicle data terminals... For each area we regularly publish the number of vacant vehicles, busy vehicles, bookings not yet covered, the age of the oldest booking not yet covered, the number of customers covered in the last 60 minutes and the number of customers we covered in the coming 60 minutes this time last week.

Drivers use such data to good effect by migrating towards the areas they are most needed, but on occasion, once there they have found themselves subject to abuse from overzealous and partisan licensing officers from neighbouring authorities who seem to think that the mere presence of a stationary waiting vehicle is sufficient cause for suspicion of illegal plying for hire. 'Waiting in the wings' should be recognised as acceptable practice irrespective of the driver's or vehicle's home licensing authority, provided the vehicles are not "ranked" in a highly visible congested area.

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)

AGREED

But not just in a public place... in a public place **which are made "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."**

We have always been happy to accept radio instructions from private hire drivers in respect of changes or additions to existing bookings. For example, if on arrival our driver discovers that the customer has ordered insufficient vehicles or the wrong type of vehicle, we will accept our driver's radio request, **on behalf of the customer**, to send additional or substitute vehicles. We are also happy to accept "return bookings" for later on, off the driver who completed the first leg of the journey. If however a driver asks us over the radio to enter bookings for that same driver to begin a journey there and then, we refuse.

The Scottish wording in its entirety seems to permit reasonable requests from customers via a driver whilst ensuring private hire drivers cannot exploit the freedom by radioing their call centre to legitimise an illegal street hail.

Provisional proposal 18

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

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)*

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

Whilst we recognise the potential risk of abuse by non-professionals, this is far from insurmountable, and fades into insignificance when compared to the colossal economic benefits. Taxi driver families, content to operate a single multi-purpose vehicle, should not be forced into the unreasonable additional expense of buying an extra car just to accommodate a licensing requirement. Vehicles used for leisure AND work can be operated more economically, providing cheaper fares and a wider range of vehicles for the consumer. The burden of proving personal use should be made the duty of the alleged “offender”.

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)*

STRONGLY DISAGREE

Fundamentally we need to retain three terms of reference...

Vehicles and drivers licensed to ply for hire. We already have the term HACKNEY CARRIAGE which is perfectly clear and understandable leaving no room for confusion with anything else.

Vehicles and drivers licensed exclusively for pre-bookings. We already have the term PRIVATE HIRE which again is perfectly clear and understandable leaving no room for confusion with anything else.

A generic terms encompassing BOTH hackney carriage AND private hire. I would suggest that we continue to use the word 'TAXI' and for the following reasons...

ETYMOLOGY - The word taxi derives from "taximeter", a device used to calculate the fare based on distance travelled, not how the vehicle was engaged in the first place. It is therefore logical to have the word encompass both the hackney carriage and private hire industry, as both charge per unit of distance.

ADVERTISING STANDARDS AUTHORITY – Appendix 1 attached to the end of this submission is the ASA adjudication of 29 November 2006 which concluded that the word "taxi" was considered by the general public to be a generic term for a hired vehicle, and without reference to the specific privilege of plying for hire, the term was not misleading.

THE REHABILITATION OF OFFENDERS ACT 1974 (Exceptions) (Amendments)

Order 2002 - "taxi driver" means a driver of a hackney carriage vehicle who is required to be licensed by a person pursuant to section 46 of the Town Police Clauses Act 1847⁽³⁾ and section 59 of the Local Government (Miscellaneous Provisions) Act 1976⁽⁴⁾ or pursuant to section 8 of the Metropolitan Public Carriage Act 1869⁽⁵⁾, or a driver of a private hire vehicle who is required to be licensed by a person under section 51 of the Local Government (Miscellaneous Provisions) Act 1976 or the Plymouth City Council Act 1975⁽⁶⁾;

OUR OWN CUSTOMERS – Audio recordings from our call centre confirm that when referring to the vehicle they are ordering, over 90% of our consumers request a "taxi", the remainder asking for a "cab" or a "car". Customers with limited mobility who find metropolitan design vehicles difficult to access will specifically state "I need a saloon car, don't send a **hackney**".

BUS LANES – Sefton and Liverpool permit hackney carriage and private hire vehicles to utilise bus lanes in accordance with local road traffic regulation orders. The signage on such bus lanes refers to BUSES AND TAXIS, which both sides of the trade recognise as referring to them. Hackney carriage stands should not use signage referring to TAXIS as this is confusing. They should be marked up as a HACKNEY CARRIAGE stand.

FOREIGN VISITORS – I do recognise the potential confusion for foreign visitors unable to flag down a private hire TAXI, but this is no more confusing than it is for anyone else unable to flag down a Liverpool licensed hackney carriage TAXI that may be driving through the Sefton borough. So long as the onus remains on the supplier, only to engage when and where the law permits I don't see a problem. In much the same way, if and when consumers try to purchase alcohol from the wrong place or at the wrong time, it is up to regulated suppliers to act within the parameters of the law or face the consequences.

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)*

STRONGLY AGREE

As already referred to in question 22 the A.S.A. has already adjudicated the term “taxi” not to be in any way misleading unless a specific reference to plying for hire is made. Our private hire agency has been known as DELTA TAXIS since 1968. To date we have so far responded to nearly 100 million requests for “taxis” with no confusion whatsoever as to the kind of service we provide.

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

‘Minimum’ safety standards result in inconsistent and somewhat spurious safety requirements. ‘National’ safety standards for both vehicle types would provide consistent protection to the public.

Provisional proposal 25

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

AGREE

Minimum might be better phrased “necessary safety standard” and should be set by Statutory Instrument under an enabling Act. It would then be cheaper and easier to amend as technology improves.

Provisional proposal 26

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

AGREE

This would provide a level playing field.

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)*

STRONGLY AGREE

As highlighted within your report, market forces have already proven extremely effective in regulating the quality of service within the private hire trade. Private hire operators are better qualified than the local authority when it comes to determining consumer requirements. In respect of training for example, we as a company set far higher standards than the local authority’s conditions of licence. Hundreds of drivers registered to Delta have at our request (not the local authority) completed courses in Visual Impairment Awareness Training, Emergency First Aid, Safeguarding of Vulnerable Adults (and Children) and the Safe Carriage of Blood and Specimens.

We hold far less stock however in the so-called knowledge test; something we have always recognised as a ‘quantity control’ in a ‘quality control wrapper.’ Appendix 2 shows a newspaper article from December 1991, prior to Sefton introducing a knowledge test, where Sefton MBC’s legal representative is quoted as saying “Neighbouring authorities like Liverpool and Knowsley have a test which they say helps restrict the number of licences.” One has to admire his candid honesty!

You cannot have one size fits all for taxi vehicles, as some designs tailored towards the carriage of wheelchairs are completely inappropriate for other consumers of limited mobility who might prefer a saloon car. The same applies to taxi drivers... some consumers are happy to pay lower fares for a scruffy driver they have to direct whilst others might prefer to pay higher fares for extremely smart and knowledgeable chauffeurs. Restaurants provide an extensive range of food with considerable variation in price. Provided the food is safe, market forces can look after the rest... the same should apply to pre-booked taxis.

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*)

NO

There are three main considerations in respect of signage...

Safety - signage across window glass can affect visibility and alter 'break glass characteristics' (Vehicle window glass should shatter into tiny light pieces, not be held together in one heavy clump by adhesive signage). Such important safety concerns should be set at a national level for private hire AND hackney carriage vehicles.

Restriction of trade – A private hire company's telephone number is its lifeline to the outside world. Our local authority used to restrict us from advertising our telephone number on vehicles for fear of blurring the distinction between private hire and hackney carriage vehicles. We viewed such prohibition as an unfair restriction of trade so secured a successful appeal through the courts. If the court decision was right for us in Sefton it should be right for anyone anywhere else. Neighbouring authorities should not have dissimilar policies when business promotion is at stake.

Blurring the distinction – The law currently aims to avoid any private hire signage that might blur the distinction between vehicles that are or aren't allowed to ply for hire. I think this completely misses the point. It doesn't matter what the vehicle looks like, if people are desperate to get home they'll flag down anything, irrespective of appearance... ice cream vans included! And what should a Sefton licensed hackney carriage driver do with his full livery advertisement for Yellow Pages once he leaves the boundary of Sefton? No longer legally allowed to ply for hire, should he remove all the stickers so as to avoid "blurring the distinction" between his out of area cab (which cannot ply for hire) and other locally licensed cabs (which can)? I think not. The emphasis should not be on what the customers see but on how the drivers act. Sefton hackney carriage drivers should not ply for hire outside of Sefton. Private hire drivers should not ply for hire anywhere at all. The responsibility rests with the driver, irrespective of how the vehicle appears, and heavy fines should be applied to anyone falling foul of test purchase operations.

Advertising revenue has an important role to play in offsetting operating overheads, providing for cheaper fares in the long run. Is it fair that one type of taxi (hackney) can benefit from such subsidies whilst another type of taxi (private hire) cannot? Is it fair the private hire vehicles licensed by neighbouring authorities should be subject to inconsistent policies when so much revenue is at stake?

Question 29

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

NOTHING MAJOR

A national safety standard exists for standard vehicles passing an MOT... taxis are not so different as to present any significant obstacles.

Question 30

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

NO

Quality should vary but safety should be absolutely consistent across both sides of the trade. CRB (or equivalent) should be consistent so unfit drivers cannot licence themselves in nearby 'soft' areas. Fit and proper could be determined by binding statutory guidance which can only be departed from if individuals prove themselves no longer a danger. The burden of proof should be on the applicant.

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)

DISAGREE

This could lead to gaps like Pink Ladies. Give Ministers the powers to set standards after consulting – they don't need to use the power unless a problem as yet unforeseen arises.

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)

STRONGLY 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)

We would support a collaborative and consultative approach combining national authorities such as VOSA, other technical experts and bona fide Trades and Enforcement representatives.

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)

AGREE

This would aid consistency and could be determined by consultation then Statutory Instrument.

Question 36

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

Yes – for hackney carriage drivers and vehicles where market forces are prone to failure. No - for Private Hire drivers and operators where market forces prevail (except perhaps where repeated disciplinary failures occur, which should result in revocation).

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 set down in legislation.

Provisional proposal 38

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

AGREE

This would allow centralised administration to be delivered by strategic transport authorities.

Provisional proposal 39

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

AGREE

As stated previously, pre-booked customers and drivers can be queued virtually within a data system whereas ranking and hailing requires hackney carriage vehicles to be physically present when queuing on ranks or cruising the main carriageways. Such rank and carriageway space is finite, and at a premium, thereby justifying in some cases a rationing of only so many vehicles per territory.

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 DISAGREE

Difficult to enforce, and how do you prescribe 'certain times' when demand is subject to such wild and unpredictable variations as can be brought about by the weather, special events, temporary road-works 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)*

STRONGLY AGREE

Market forces are driven by freedom of choice. When private hire passengers use their own telephone they can choose from any private hire operator in the land, but if they use a 'free-phone' supplied to a premises by a private hire company, a technicality in the law restricts consumer choice solely to those operators physically located within the same local authority boundary. Such arbitrary boundaries are unnecessarily restrictive and anti-competitive, obstructing the natural progression of consumer-friendly market forces.

Private hire drivers are in a similar position. Before they can drive a private hire vehicle they must obtain a private hire driver licence, but in doing so they immediately limit their choice of operator to those physically located within the same local authority boundary. If private hire drivers had complete and untethered freedom of choice, market forces would be more effective in making operators provide better value for their drivers.

Due consideration must also be given to home-based workers, particularly in light of disability and equality legislation. The legal technicality preventing cross-border free-phones also prevents employees working from homes located within a different local authority than their employer. Prospective new employees currently tied to their home by dependants, limited mobility or even agoraphobia should not be excluded from gainful employment by arbitrary local authority boundaries.

Finally, there is the huge licence fee anomaly which needs fixing. There are hundreds of Delta drivers who live in Liverpool, work in Liverpool and would like to pay their licence fee to Liverpool, but they are not allowed. The law currently forces them to pay Sefton, simply because that is where our office is based, much to the frustration of Liverpool council officials. If the law permitted operators to act for drivers licensed by ANY authority, drivers would tend to go to the licensing office that was nearest their house, which also happens to be the area the driver is most likely to work IN. Of course the knowledge test requirement and widely ranging licence fees would have to be standardised. Standardised licence fees, no knowledge tests and no operator restrictions in respect of private hire drivers' home authorities, would effectively steer more funds to the authority most likely to inherit the burden of enforcing the drivers and their 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)*

STRONGLY AGREE

We think it despicable that any right minded person would support such shameful, protectionist and environmental suicide as has been proposed by Unite the Union by way of a 'return to area' proposal. It is acutely elementary that such measures would increase carbon emissions, promote higher fares, reduce consumer choice, lengthen customer waiting times and hamstringing the efficient operation of the most popular taxi services.

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)*

AGREE

When one engages the services of a hackney carriage driver by “rank” or “hail”, the taxi is right there in front of you. When telephoning however, your nearest cab could be twenty miles away, so it is only reasonable to expect additional charges to cover a driver’s journey from where he or she was called from to where you might want to be picked up. Customers might also be happy to pay a premium for drivers in uniform, or with specialist tour-guide knowledge, above and beyond the standard national requirements. In such pre-booked cases market forces should be left to determine the price.

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)*

The principal of ‘fit and proper person’ and national driver safety standards should be set out in primary legislation but the Secretary of State and Welsh Ministers should be allowed to further define driver safety standards by SI 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)*

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)*

Powers for National vehicle safety standards should be set out in primary legislation but the Secretary of State and Welsh Ministers should be allowed to further define vehicle safety standards by SI regulation should the need arise. This will allow for future technological changes to be easily dealt with.

Provisional proposal 48

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

AGREE

Subject to limiting the scope of journey-records required, as expanded upon in Question 53.

Question 49

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

AGREE

In respect of FIT AND PROPER I believe Hackney Carriage radio circuit operators should fulfil the same criteria as Private Hire radio circuit operators. In respect of journey records however, I believe records should only be mandatory where drivers need proof they were not plying for hire.

Provisional proposal 50

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

AGREE

Provided the END PROVIDER is a licensed operator, I see no reason to license intermediaries who merely bridge the gap between consumers and suppliers. When school children fall over in a playground and need to be taken home or to hospital, teachers will often utilise a taxi account previously set up with a local private hire company. It should be sufficient for the private hire operator to be licensed without licensing the school as well.

Question 51

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

AGREE

Provisional proposal 52

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

AGREE

Such arrangements are already proven to have worked well in London since the legislation provided for its introduction in 1998. However, the flexibility and efficiencies derived by sub-contracting currently gives London operators an unfair commercial advantage over operators located outside of London. In the interests of fair competition sub-contracting should therefore be extended beyond the Capital to include everyone else.

In the interests of consumer protection, ultimate responsibility for each contract should remain with the 'FIRST OPERATOR' to accept the booking irrespective of any subsequent sub-contracting.

Question 53

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

NO

Record-keeping might be desirable from a customer service perspective (particularly in respect of after-sales service) but it is far from essential.

Where record-keeping *is* essential however is in the defence of private hire drivers (or 'out of town' hackney drivers) falsely accused of illegally plying for hire. I therefore see no reason why drivers or vehicles fully licensed to ply for hire should be compelled to keep journey records.

I beg however that the Law Commission's economists give deep and meaningful consideration to the scope of records required by private hire companies, as the financial ramifications really are quite substantial...

The Local Government (Miscellaneous Provisions) Act 1976, Section 56.-(2) requires "Every person to whom a licence in force under section 55 of this Act has been granted by a district council shall keep a record in such form as the council may... prescribe... before the commencement of each journey... such particulars of every booking ... as the district council may by condition prescribe..."

“Such particulars of every booking” varies from one local authority to the next, and with huge financial implications. Take for example a customer’s destination. Liverpool private hire operator conditions insist upon such particulars as a **destination** being recorded before the commencement of each journey, whereas Sefton MBC conditions do not. Sefton agreed to drop the destination once they recognised the unnecessary financial burden it placed on local operators...

Interactive Voice Response (IVR) systems permit callers to enter a super-efficient and rapid request for a private hire vehicle to come to their home simply by pressing ‘1’ on their telephone keypad. The system is able to use the customer’s incoming telephone number to determine where they are calling from... but such technology cannot determine where they want to travel to. Our IVR dispatches their car with a provisional destination of ‘AS DIRECTED.’ On arrival the customer directs the driver where to go and the tracking system automatically monitors the driver’s route and records the final destination ONCE THE JOURNEY IS COMPLETED.

Reports generated by our Avaya telephone system confirm automated IVR bookings account for between 70,000 to 80,000 calls a week... 33% of our total. If our office happened to be located 2 miles away, within the controlled district of Liverpool, where destinations are required prior to the commencement of each journey, we would have to abandon our VIRTUAL IVR agents and replace them with human telephone operators.

That’s not all... for a trial period earlier this year we tried asking customers for a destination whenever they spoke to a human (as oppose to the IVR), so their drivers arrived knowing where the journey was going to (and their on-board navigation system was pre-set with a suitable route). Reports generated by our Avaya telephone system had previously confirmed that professional agents usually take on average between 20 - 30 seconds to process a call WITHOUT A DESTINATION. The trial ‘destination’ period proved that asking for a destination increased the average call duration to between 30 – 45 seconds, a full 50% extra time, requiring 50% more staff to maintain the same service levels.

The combination of no IVR **AND** 50% longer call durations would effectively **double the wage bill** for our call centre, and for what purpose... to put the destination on BEFORE the journey commenced rather than when it ended!

One other interesting thing happened during our brief 'destination' trial period. A major local casino that had previously ordered about 250 taxis a month stopped using us (our system is designed to highlight such things). On further investigation it transpired that a significant proportion of their clientele were Chinese visitors who spoke no English and preferred to direct their taxi driver by pointing once they were in the car! When we ended the trial and stopped insisting on destinations before commencement of the journey, the Casino began ordering our taxis once again, and we continue to record their destinations on completion of each hiring.

In reality, customers often change their destination after placing their original booking... the cash point they originally intended to stop at may be out of order, the restaurant they planned to go to might be closed or health workers might be redirected mid-journey to a more urgent client. When police officers inspect our records, they find the customers' ACTUAL destinations far more useful than where the customer originally 'said' they wanted to go.

There are other particulars which may be required too, such as the customer's name. Sometimes we find a name useful but more often than not we don't need it, and there are many occasions where vulnerable single females might not feel comfortable giving their name over the telephone. Drivers don't need a name to identify their customers anyway, as we tend to send Text Tickets to our customers' mobile telephones. These text messages advise customers of their assigned vehicle's make, model, colour and registration, whilst giving the customer something to show to their driver, as proof they are the correct customer.

The principal mischief journey records set out to tackle is illegal plying for hire. Other than that it should be up to operators themselves to determine what records are appropriate, and whether they should be stored before, during or after the journey.

CHAPTER 17 – REFORMING QUANTITY CONTROLS

Provisional proposal 54

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

DISAGREE

As stated earlier, pre-booked customers and drivers can be queued virtually within a data system whereas ranking and hailing requires hackney carriage vehicles to be physically present when queuing on ranks or cruising the main carriageways. Such rank and carriageway space is **finite**, and at a **premium**, thereby justifying in some cases a cap on the number of hackney carriage vehicles vying for such limited real estate.

I do not believe numerical restrictions should be tailored towards the protection of taxi driver livelihoods. The industry exists to provide a service, not to protect drivers' jobs. However, due to the unique nature of 'ranking' and 'hailing' special consideration has to be given in respect of congestion, pollution and obstruction. Pre-booked service providers can wait unobtrusively in the wings or even migrate to other areas of higher demand. The same cannot be said for 'rank' and 'hail' service providers. Their modus operandi presents unique challenges for local authorities, and as such each authority should retain the power to restrict numbers.

Question 55

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

The problems arising from derestricted numbers are already well recognised within the industry - over ranking, obstruction, congestion and pollution. Such problems all arise from the single phenomenon of OVER SUPPLY, so it's worth looking at why this happens, and how it is managed across both sides of the trade...

FORECASTING - To begin with, comprehensive pre-booked journey records allow for pretty effective demand projections, so drivers' in-car data terminals can be fed constant updates as to when and where driver services may be most needed. By comparison, demand forecasts within the 'hailing' and 'ranking' markets rely on driver experience or gut feeling, with many drivers continuing to return to the same over-populated rank simply from force of habit.

OSMOSIS - Our journey records paint a fairly consistent pattern for weekend revellers on Merseyside. Early evening sees a geographical ring of passengers leaving the outer boroughs, heading inwards towards central Liverpool. At the end of the evening there's an explosion of passengers travelling back out from the city centre, returning home to the surrounding suburbs. A pre-booked market can respond dynamically to such patterns, with waves of cross-border vehicles ebbing and flowing with the tides of consumer demand. By comparison, rank and hail drivers are effectively hemmed in by political territories wholly inconsistent with consumer demand. This leaves ranking and hailing markets more exposed to over- and under- supply at various times of day and night.

WAITING FOR A BOOKING – Having made a statistically sound and informed decision of when to work and where to wait, drivers within the pre-booked market can queue themselves virtually within a data system. In order to minimise customer waiting times, GPS dispatch system algorithms are designed to find customers a nearby vehicle, so pre-booked drivers are encouraged to 'wait in the wings'. They can do this discretely with their engine off; they don't even have to sit in their vehicle any more... modern equipment enables them to accept work with a wireless remote, whilst sat in another car, in a café or even at home. By comparison, rank work requires drivers to be physically present in blatant cabs, queued on a precious stretch of high profile carriageway. Once the rank is full, drivers cannot wait virtually in the wings, so tend to queue up behind the end of the rank, or over the road in illegal 'feeder' queues, which are difficult, if not impossible to police.

Even with a numerical restriction in place, over ranking is so common throughout Sefton, private hire drivers are often unable to load or unload passengers at busy locations such as the Bootle Strand. The officially designated loading bay is constantly filled with hackney carriage vehicles too numerous to fit on the rank ahead of it. A bylaw gives Liverpool the power to prosecute any driver 'failing to proceed to an appointed rank', but with no such bylaw in Sefton, officers are powerless to do anything about it. De-restriction would only make the current situation worse than it already is.

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)

AGREE

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

Question 58

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

NO

Licence fees should be ring-fenced to cover licensing and enforcement only.

We are fully in favour of subsidised accessible transport but believe the government should explore other avenues to achieve this. For example, Merseyside's integrated public transport authority appears to waste significant sums of money subsidising bus routes which fall woefully short of desired occupancy. A tidy up here would allow more than enough money to be released as grants towards specialist demand response transport solutions within the taxi industry.

The small fleet of wheelchair accessible vehicles we do provide are only viable due to significant subsidies made by our own company. We would welcome financial support from elsewhere but do not believe we should be dipping into funds designed to licence and regulate the 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)*

As stated previously, integrated transport authorities might provide financial support by way of grants or subsidies.

One must be careful however not to place too much emphasis on WHEELCHAIR ACCESSIBLE VEHICLES (WAVS). Our neighbouring authority of Liverpool prides itself on a 100% WAV fleet, based on the wholly false assumption that ONE SIZE FITS ALL DISABILITIES. Despite having one of the largest hackney carriage fleets in the land (circa 1426 cabs), not a single one is suitable for passengers recovering from a hip replacement. At only a fifth of the size, Sefton's small but perfectly formed hackney carriage fleet is far more accessible to passengers of all disabilities as it licences WAVS and saloon cars in equal measure.

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)*

[A legal obligation with sanction for failure to comply.](#)

CHAPTER 19 – REFORMING ENFORCEMENT

Question 64

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

AGREE

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)

Test purchasing continues to secure prosecutions against unlicensed drivers.

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 in relation to matters of safety. This should not include licensing infringements such as illegal plying for hire.

There were reported incidents a few years ago of private hire drivers having their car impounded for illegally plying for hire, due to the technicality of not being insured. Having “no insurance” is however very different from having insurance which is invalidated by a licensing infringement. My insurance broker assures me that under such circumstances, an innocent passenger would still be covered by the underwriter, which in turn may seek to recover costs from the offending driver personally. Private hire drivers plying for hire therefore place themselves in extreme danger of financial ruin, but the customer would not appear to be any more at risk than if they had pre-booked.

Question 67

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

Yes, but sanctions should be proportionate.

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)

AGREE

Yes, but only via the ‘Home Licensing 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)*

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)*

AGREE

APPENDIX 1

ASA Adjudications

K2 Contract Hire
2 Academy Street
Edinburgh
EH6 7F

Date: 29 November 2006
Media: Radio
Sector: Business

Number of complaints: 1

Ad

A radio ad, for K2 Contract Hire, a private car hire company, stated " ... need a four-, six- or eight-seater taxi in a hurry? ... want to save 20% off the metered fare ... ".

Issue

A listener objected that the use of the term "taxi" misleadingly implied that the company operated a hackney cab service.

BCAP Radio Advertising Code: 2 - 3

Response

Radio Forth explained that the campaign had lasted for four weeks and that the station had received a couple of phone calls expressing the view that the use of the word "taxi" was misleading. They believed the word "taxi" was not misleading and provided a photocopy of a page out of Edinburgh's Yellow Pages that showed the use of word "taxi" for private car hire firms was common.

Assessment

Not upheld
The ASA noted the ad stated "... need a four-, six- or eight-seater taxi in a hurry?" and considered that it was generally known that hackney cabs could accept a maximum of five passengers only. We understood, from an Office of Fair Trading report, that the licensed taxi and private hire vehicle market was highly regulated at local level and that licensed taxis were allowed to ply for hire on the street, or at ranks, whereas private hire vehicles were not. We concluded that the word "taxi" was considered by the general public to be a generic term for a hired vehicle and that, because the ad made no reference to the specific licensed taxi privilege of ply for hire, the ad did not mislead.

We investigated the ad under CAP (Broadcast) Radio Advertising Standards Code section 2 rule 3 (Misleadingness) but did not find it in breach.

Action

No further action necessary.

APPENDIX 2 – Liverpool Echo 16.12.1991

Prior to Sefton MBC's introduction of the knowledge test.

● Make sure, if at all possible, that the loan financial difficulty is 021-359 8501.

Cabbies fight the 'knowledge'

A ROW is looming in Sefton over plans to introduce a street knowledge test for cab drivers. Council officers are drawing up a report detailing the arguments for and against the scheme.

But private hire firms are putting their foot down over the move.

Recommendation

Kenny Evason, of the Seaforth Licenced Operators' association, said: "I don't think this is something we will be in favour of, although we will have to examine the proposals.

"We don't experience any problems at the moment."

John Birchall, of Sefton's legal department,

By Barry Turnbull

said: "Neighbouring authorities like Liverpool and Knowsley have a test which they say helps restrict the number of licences.

"It seems as if many drivers come to Sefton to obtain a licence because they do not have to take a test.

"At the moment the proposal is being weighed up and a recommendation will be put forward to councillors."

ECHO 16/12/91

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

31/08/12

Dear Sir/Madam,

The Spinal Injuries Association (SIA) welcomes the opportunity to respond to the Law Commission's consultation on Taxi and Private Hire services.

SIA is the largest organisation in the UK representing spinal cord injured people. We are a user led organisation, and our membership has repeatedly identified accessible taxis as key to their ability to live independently. In order to bring our concerns directly to those who can influence policy on this issue we have enclosed our Taxi Charter which we believe covers many of the relevant points that local authorities and the Government should consider when addressing their accessible taxi policy. We understand that all local authorities have different policies in this regard, but this Charter sets out our views on where we believe there should be no differences in terms of driver behavior, safety and incentives for wheelchair users and drivers alike. We also believe that disabled people should be able to access a hackney carriage fleet accessible to their needs and not constrained by out dated specifications and legislation or misconceived ideas about the service they require.

We believe that nothing we are suggesting will conflict with the aims of the consultation and our members only seek your urgent attention to this issue so that they may benefit from an improved service as soon as possible. Please remember that for many wheelchair users the taxi is the only form of accessible transport that is available on demand 24/7 and as such should be considered a real life line.

Naturally we are also interested in feed back and would be very grateful if you could spare the time to let us know your views on our Charter and how you see this affecting your policies in the future.

Yours Sincerely

DBurden

Daniel Burden
Head of Public Affairs
SIA





Spinal Injuries Association Taxi Charter

In its Campaigning for Change Manifesto 2009 – 2011, the Spinal Injuries Association (SIA) addresses the challenges that public transport and, in particular, taxis, present to those with spinal cord injuries (SCI).

Section 36 of the Disability Discrimination Act 1995 (DDA) introduces legislation to make taxis accessible for disabled people. However, this is still to be enacted by government. The delay in its implementation appears to be the technical specifications which define a “wheelchair accessible taxi” and the cost to the taxi trade of providing these vehicles.

In this document SIA puts forward an “**Accessible Taxi Charter**” to address the challenges currently facing those with SCI and other disabled taxi passengers in the U.K.

...because life needn't stop when you're paralysed.

The Present Problems

- Vehicle types used for taxis differ across the country.
- The number and availability of wheelchair accessible taxis differ from area to area.
- Often drivers have no disability awareness training or are unaware how to operate equipment like ramps and clamps.
- This equipment is often in poor working condition or has been mislaid and is not with the vehicle.
- Wheelchair accessible vehicles licensed by local authorities may not be of a suitable specification.
- There is no standardised complaints procedure or enforcement for bad service.

Desired Outcomes

SIA will be pressing for improved and compulsory driver training which will ensure:

- Drivers better understand the needs of their disabled passengers.
- Drivers are able to operate and maintain equipment properly.

SIA will also be pressing that via the licensing system:

- All vehicles working from official taxi ranks meet a minimum standard that enables it to carry a passenger safely in their wheelchair.
- Wheelchair accessible vehicles are provided with side access off the kerb side to provide direct access to/from the pavement.
- The built environment which is used for taxi ranks is suitable to allow easy and safe access for wheelchair users to the taxi, such as raised platforms at taxi ranks.
- There are sufficient wheelchair accessible taxis working away from a taxi rank to ensure that disabled people can obtain a vehicle that meets their needs.
- The level of accessible vehicles should be greater than those not capable of carrying a wheelchair user seated in their wheelchair.
- Taxi operators have a duty to provide an equal service for disabled and non disabled people.
- There is a standardised, enforced complaints procedure across all local authority areas.
- Taxi operators refusing to provide a service to disabled people are suitably punished to deter repeat offences.

CHARTER

SIA believes that these recommendations will improve access for all disabled taxi passengers.

- All taxis (hackney carriages) should become side loading wheelchair accessible vehicles and cater for every disabled person.
 - All taxi drivers should be thoroughly trained in disability awareness and the competent use of the facilities in their vehicles.
 - The single specification for accessible taxis must be demonstrably safe in all respects and converted vehicles should not be tested to a lower safety standard than that used by saloon cars.
 - Standards should be deliverable in the short term by manufacturers and converters and also be affordable so as to ensure a quick delivery of the DDA requirements.
 - Accessibility standards should enable wheelchair users to access an integrated transport system, allowing an uninterrupted journey on trains, buses and taxis.
 - Authorities should ensure street planning and rank provision meet the need of disabled passengers.
 - Licensing authorities must ensure that drivers of accessible taxis do not discriminate against disabled people under the DDA.
1. Under the proposals of the DDA, it was envisaged that all taxis (hackney carriages) should become wheelchair accessible and meet a predetermined specification. It was envisaged that the trade would be given a ten year period to achieve this and SIA believes that this must commence as soon as possible.
 2. The Department for Transport has suggested that a mixed fleet of saloon cars and wheelchairs accessible taxis within the hackney carriage fleet is an option for meeting the needs of wheelchair users. SIA does not believe that this is practical or desirable and will seek to show why in this charter.
 3. SIA believes it is imperative that all taxi drivers are required to be trained in disability awareness and assisting disabled passengers safely into and out of their taxis. This is a major issue both in terms of safety for disabled passengers and the willingness of drivers to undertake journeys with wheelchair users.
 4. If a taxi driver refuses to take a wheelchair passenger then this should be treated as an offence under the DDA. SIA believes that if all drivers are properly trained then such situations need never arise.

Critical Issues

The huge variety of accessible taxis in the marketplace can present disabled passengers with a poor, and in some circumstances unsafe, choice of vehicle. To address this issue SIA proposes the following:

Safety

- The European Community provides a “Type approval” system for the production of all cars, called “European Whole Vehicle Type Approval”. Vehicles that are converted to accommodate wheelchair users can currently be tested to Single Vehicle Type Approval after conversion, which is a national standard. SIA does not believe that this is acceptable for a public service taxi. All such converted taxis should be re-tested to fully European Whole Vehicle Type Approval.
- SIA believes that side loading should be the standard adopted as the safest method of accessing taxis from taxi ranks and the street. The advantages of side loading are that:
 - It is safer to keep wheelchair users on the pavement than to put them in the road, particularly facing away from on coming traffic.
 - Taxi drivers may not be familiar with lowering a wheelchair over a kerb which can present dangers to the passenger. Similarly, passengers using electric wheelchairs may find it impossible to go down over a kerb. If access is from the pavement then these issues do not arise.
 - Being seated in the centre of a taxi is likely to be safer than being seated at the rear of the vehicle. The majority of accessible taxis have centre divisions which would provide passenger protection in the event of a side impact. However, most rear loading taxis leave the wheelchair passenger at the back of the vehicle in the rear impact zone.
 - The need to have an alternative exit in the event of an accident is paramount. In an emergency a side loading vehicle will offer the passenger the opportunity to exit the vehicle from an alternative exit. In the case of a rear loading vehicle where the rear doors or tailgate are damaged, this would be impossible. This is not acceptable for a public service vehicle.
- An agreed Government specification will deliver additional safety to passengers. Local authorities may currently license accessible vehicles to a range of technical specifications which may be inappropriate and potentially dangerous.

The Right Specification

- One of the critical concerns of disabled people is the need for an integrated transport system so that journeys can be completed without disruption. The taxi is unique in delivering door to door transport and therefore needs, at the very least, to provide the same accessibility standards provided by buses and trains under the DDA.
 - The reference wheelchair measuring 1200 x 1350 x 700mm formed the basis of accessibility standards for buses and trains and SIA sees no reason not to adopt that same standard within the rear cabin of a taxi.
 - SIA understands that there are already many conversions in the marketplace that meet this standard. This demonstrates not only that this specification is achievable by converters, but that it is also presumably affordable by the taxi trade.
 - Accessibility for ambulant disabled passengers is a key issue. At present the purpose built taxi provides a swivel seat and demountable step on every vehicle. If this were replicated by converters it would address the perceived difficulty by ambulant disabled passengers of using accessible taxis.
 - Affordability is clearly a key issue for the taxi trade. However, there are currently many cities with satisfactory accessibility standards for their vehicles. It seems logical that if this specification can be afforded in these towns and cities then it should be possible across the country. Rural areas may present more of a challenge to the trade as income may be lower, but SIA understands that drivers in these areas commonly purchase second hand vehicles and would therefore be likely to purchase second hand accessible vehicles when the DDA requirements are introduced.

The Mixed Fleet Issue

The Department for Transport has suggested that a mixed fleet of saloon cars and wheelchair accessible taxis may meet the needs of disabled passengers. SIA does not agree with this proposal for the following reasons:

- Under the DDA the choice of saloon car was envisaged as being provided by private hire. The taxi was instead seen to provide instant accessibility on the rank as part of an integrated transport system. This ensured that a wheelchair user was in no way disadvantaged when taking a taxi from the rank.
- It is not clear how a local authority can decide who will drive an accessible vehicle and who will drive a saloon car. Accessible taxis are of necessity more expensive to operate and this is likely to lead those driving accessible vehicles to revert to saloon cars over time. SIA does not want to see 100 per cent accessible taxi fleets gradually erode away. Any solution to this problem is likely to require new legislation, and will further delay implementation of the DDA.
- To overcome the concerns of those calling for the mixed fleet, the specification of any future taxi should take into account the needs of wheelchair users, ambulant disabled passengers, the elderly and those with other requirements.

Driver Training

SIA believes that all taxi drivers should be trained in dealing with disabled passengers. SIA therefore recommends that:

- All drivers must undertake disability awareness training as a condition of their licensing.
- All drivers must demonstrate that they have full working knowledge of the equipment fitted to their taxi. This should include the ability to safely load and secure a wheelchair and assist passengers with other mobility requirements.

Local Authorities

Local authorities could ensure that accessibility to taxis is made easier for disabled passengers in some very simple ways. The following key principles should be a requirement on all authorities.

- Taxis on taxi ranks should always be accessible from the near side.
- Ranks should have raised pavements at the point of entry so as to minimise ramp angles and step height.
- Cover should be provided for passengers at ranks where waiting is a frequent occurrence.
- Rank availability should take into account the needs of disabled passengers. For example, ensuring that hospitals have accessible taxi ranks near to the main entrance.

SIA would also like to see the introduction of a standardised, enforced complaints procedure across all local authority areas. This will ensure that disabled people can be confident that their complaints will be handled effectively. It would also ensure that offending taxi operators are suitably punished and that disability discrimination is taken seriously by the industry.

Timing

The DDA envisaged a ten year changeover to the new specification when agreed. Given that the specification has yet to be decided, SIA urges that:

- The new specification be agreed as soon as possible based around vehicles that are currently in the marketplace and can meet the requirements outlined above with limited improvements.
- All vehicles that do not meet the final specification should be required to do so when the owner next changes the vehicle. This will prevent saloon cars being kept on the road and changed only at the last possible date.
- All authorities should only issue new licences for wheelchair accessible taxis that meet the agreed standard.

SIA anticipates that this Charter will act as a benchmark for Government, Licensing Authorities, manufacturers and converters and members of the taxi trade. Please help us to deliver it as soon as possible.

For more information please contact

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Registered Charity No 1054097
Charitable Company No 3175203

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)**

The *Trailblazers* feel that it is important to have a separate licence category for wheelchair accessible vehicles and taxi ranks. This is because it will make it easier for a disabled person to get a taxi that is accessible to them.

However, the network believes that taxi companies will need to be incentivised to achieve this successfully

Question 58

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

The *Trailblazers* believe this a good idea as it is very common for taxi drivers to give excuses as to why they do not operate accessible vehicles. For example, they're too expensive to run/repair and there's not enough demand etc.

A financial incentive like this will be advantageous as it will reassure taxi firms that they will see a guaranteed return on their investment. This will of course also increase the numbers of accessible vehicles available which will, again, improve the ability for a disabled person to use a taxi or private hire 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)

Taxi firm and licensing authorities should work and meet with disabled people in their area to highlight where the gaps are in current provision and how these should be filled. Taxis play a major part in the lives of many disabled people and it is important to make sure vehicles have a variety of adaptations so that the large range of disabilities are catered for.

It is then essential that these new accessible vehicles are then well publicised so local disabled people and visitors to the area are aware of all the different types of vehicles available so they can decide on the one most suited to them.

Provisional proposal 60

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

Trailblazers understand the concerns about this policy, it may indeed be hard to monitor. However, we believe it to be an important step forward to make sure there are enough accessible vehicles out on the road.

Currently, there is a big variation between the accessibility and the number of taxis across cities and towns in the UK. It is therefore essential that if a quota system is not used then a financial incentive must be created to encourage more taxi firms to take on accessible taxis.

Provisional proposal 61

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

Trailblazers most definitely agree with this policy. They need to be aware how to use the equipment, but also need to know they may have to adjust their driving depending on the person on board i.e. going slower round bends etc. We also believe it would give young disabled people more confidence of using taxis and private hire vehicles independently. However, we know from bus drivers that disability awareness training does not always improve their willingness to help disabled people. The training should be delivered by disabled people with a range of conditions and impairments.

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)

Trailblazers have mixed feelings on this policy. We feel that it is important to be able to know who to complain to if the person's experience is not up to the standard it should be. However, it may put the person off complaining because if the driver sees the passenger taking note of the information, it may mean they get an even worse experience. This policy also only works once the person is inside the vehicle. If a taxi fails to stop, it does not give the person a way to complain about this. Therefore this information should be also advertised on the outside of the vehicle.

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)

Trailblazers believe this is more of a social issue, which relates back to training. Drivers should receive training which includes face to face contact with a disabled person, to try and break down this barrier and negativity. We do, however, feel that obligation is one solution, but there could also be designated pick up points around the city and town centres so it is clear to a taxi driver that the disabled person would like to board and it will also give them a safe and non-obstructive way to load a wheelchair user.

From: Denis King [REDACTED]
Sent: 04 September 2012 15:38
To: TPH
Denis King

Ref. The Law Commission attempt to De-regulate Hackney Carriages.

Can you please tell me how the Law Commission can possibly know the requirements of local needs around the country. Torbay is a holiday destination and the local council has been providing for it's needs and requirements adequately to the present so why the need to change things should arise now escapes me. They have held their own surveys and apart from the need of an increase in the proportion of disabled adapted hackney carriages and extra "Summer" plates have kept the status quo.

The idea of the Law commission allowing "Private Hire" plates to ply for hire on the streets after 22.00.hrs. would only have numerous drivers from the south Devon area descending on the harbour area in Torquay when the night clubs turn out and causing mayhem. Also, if the red plates were all to be licenced from Swansea where would the monitoring of the fitness to trade of the cars come from and the local knowledge test ? (A Sat-nav is not the answer to everything)

yours sincerely Denis King

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4th September 2012

Law Commission : Consultation Paper No 20

Response to consultation on behalf of the Public Transport Users' Committee for Wales

Dear Sirs

I write to you as Chair of PTUC, the Public Transport Users Committee for Wales.

The PTUC is specifically tasked with providing Welsh Ministers about strategic issues relating to public transport services in Wales. Our terms of reference include providing advice from the public transport users' perspective, on all aspects of public transport services and facilities, and making recommendations on ways to increase the appeal of public transport, with a particular emphasis on:-

- Improving accessibility, safety and mobility of public transport services
- Encouraging sustainable travel
- Promoting social inclusion through public transport services
- Supporting greater integration and interchange between different modes of transport, for example between buses, trains, taxis, community transport.
- Encouraging a shift from using the private car to using public transport.

Further to your consultation on Taxis and Private Hire services the PTUC would like to offer the following comments:

- The PTUC welcomes the review and acknowledges the need to reform the law on taxi and private hire services.
- The PTUC recommends that there be clear definitions of taxi and private hire services
- The PTUC recommends that a clear system of robust enforcement of standards be put in place.

- Vulnerable adults, children, elderly and people with disabilities are more dependent on the services of taxis and private hire cars particularly where public transport cannot meet their needs.
- People using the services need to know that they are safe reliable and fit for purpose
- In many rural areas and small towns and villages it is the only method of transport and they rely on the services

The Key Proposed Changes outlined in the Summary Document are

1. National minimum safety standards for both taxis and private hire

We suggest that these should be national standards across Wales which should apply equally to both services, and which should include visible signage

2. The changes to national standards should be on fares as there is a local variance on both forms of hire

3. We agree that there should be across boundary and subcontracting .With national standards it would make it be easier for enforcement officers and the police to enforce

4.London/cities should be regulated as else where

5. The number of licences should not be limited, but there must be staggered entry over a period of time

6. as in 3. Licensing officers should have enforcement powers for out of borough vehicles and drivers which would be possible with national standards.

7. There should be disability awareness, but this should also include CRB checks, equality and safety standards

8. There should be clear and understandable statutory definitions of hire both for taxi and private hire.

9. Wedding and funeral cars should not be exempt

10. Allow for leisure use of taxi and private hire.

11. The Wales Government should be able to have separate standards in respect of different categories of vehicle

12. There must be exclusions for volunteers and other services where transport is not the main service

13. The Wales Government should have powers to issue binding statutory guidance to create greater consistency in how taxi and private hire legislation is applied across the Principality

CONSULTATION QUESTIONS

Provisional proposals

Overview of Provisional reform proposals

1. We agree there must be clear differences between taxis and private hire particularly with technology at present and in the future
2. We agree with the proposal
3. The type of vehicle must not be restricted as this may vary with location and terrain.
4. If this is not necessary then a test of road use/behaviour would be necessary for the driver for the safety of the passengers
5. To 22 we agree to the content of these proposals.
6. 23 No Only one term should be used not to confuse the public

A Reform Regulatory Frame Work

24. The national standards should be mandatory and be the same for taxis and private hire and additional ones at the discretion of the licensing authority e.g. fares. The standards must also include the signage, state of the vehicle interior, training of drivers on safety, equality, hours of the driver, CRB checks

25/26 27 see 24

28. The signage should be visible (side of passenger door) and include an all Wales logo

29. The obstacle *could be enforcement if the signage was not clearly visible*

30. There should be no difference between the two services

31. The powers of the Wales Government should cover ALL conditions not only safety

32-44. We agree with the proposals

Reform of Driver ,Vehicle and Operator Licensing

45-53. We agree with the proposals but should be in mandatory regulations so that changes can be made in changes to technology etc.by the respective government

Reforming Quality control

54-56. Agree if the proposal in 56 if implemented.

Taxi and Private Hire Reform and Equality

57. We agree with this proposal but would include other categories, guide/helping dogs, other mobility/walking aids and equipment

58. This would be an incentive to have accessible vehicles

59. That there is the ability to sub contract and all fleets must be mixed

60. We agree with this statement but would suggest that LA provide information on numbers and percentage

61. Agree but must also include CRB checks and training in equality

62-68. We agree with these proposals

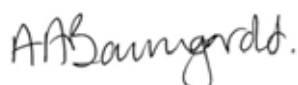
69. With appropriate signage and the role of police and national standards this could be achieved particularly if there was a national data base between L.A. `s

Reform and Hearing Appeals

70-73. We agree that this should continue as at present, there should not be the need to appeal to Crown Court.

Should you require any further information on this or any other issues in respect of the work of the PTUC then please do not hesitate to contact me.

Yours sincerely



Adele Baumgardt

Chair PTUC

From: Office - J & M Humphris [REDACTED]

Sent: 04 September 2012 15:50

To: TPH

Cc: s [REDACTED]

Subject: Taxi and Private Hire Service Proposal no11

Dear Sirs,

I was both very surprised and concerned when I read about the proposed changes to Taxi and Private Hire Services in particular Proposal no11 "Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation."

In the first place this seems to be totally contrary to the Government's stance to reduce red tape which is becoming an increasing burden on small companies such as ours. We are a small independent funeral directors.

The initial outlay for the purchase of a Mercedes limousine such as ones we provide is now in excess of £100,000. Which means it takes many years to be able to replace a vehicle. The same cost applies to a Mercedes hearse. Any additional cost and time needed to comply with the proposed changes would be substantial.

The nature of our business means that our limousines aren't in use every day and as a result all our drivers although very experienced are part time.

We therefore have pool of 13 drivers the cost of having a special drivers licence would be very considerable. As well as the added problem of the logistics of doing this.

I understand it would also be a requirement that the vehicles be accessible to wheelchairs ; this totally impractical. Limousines are essentially a specially extended saloon car. At present on the rare occasions a passenger is in a wheelchair they have sat in the front of the limousine where there is more leg room and their chair placed in the boot.

When someone has been severally disabled we have hired a specially adapted taxi which has a hydraulic lift.

If the proposed legislation became law many funeral directors would I am sure cease to replace their limousines and family members who are often in a distressed state would either have to drive themselves or use a taxi. You could have the situation whereby the hearse is waiting to leave the church to go to the crematorium or cemetery whilst mourners hail a taxi.

I would be very surprised if the aim of this proposed legislation is to have such a restrictive effect on the funeral industry .

Yours faithfully,

Martin Humphris

J & M Humphris

J & M Humphris
[REDACTED]
[REDACTED]

Company Registration 7408493

VAT Registration Number 119 3787 44

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KIRKLEES COUNCIL

QUESTIONS AND RESPONSES TO LAW COMMISSION CONSULTATION ON TAXI & PRIVATE HIRE LEGISLATION

Question 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)

Not necessarily, the current two tier system is outdated taking account of modern day communications technology and consideration should be given to whether a 2 tier system is still viable considering advances in communication technology.

Question 2

London should be included, with appropriate modifications, within the scope of reform.

If the proposal is to have “national” legislation consideration should be given to including London

Question 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.

Yes

Question 4

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

Any vehicle motorised or not used for hire should in the interest of public safety be subject proper licensing controls.

Question 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.

PSV should not be included within the definition of taxi and private hire. The mode of operation is entirely different

Question 6

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

Agree

Question 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, there is currently no national guidance on these type of vehicles and local authorities are having to set standards with no assistance, guidance or consistency across authorities.

Question 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.

Agree – this authority has had to deal with numerous frivolous complaints where it has been alleged that we should be licensing e.g. hospital volunteers It is our belief that the existing legislation was never intended to capture these groups. Clarity would be welcome.

Question 9

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

(a) carpooling; and

(b) members clubs?

Neither of these activities should not be included in the taxi and private hire licensing nor should play school or nursery provision. Members clubs needs defining.

Question 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.

Question 11

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

Disagree – These cars should be excluded from the requirements to be licensed. To include them would only increase the bureaucratic burden for business that offer an essential service at emotional times for their customers.

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, there is no merit in reintroducing this exemption which was used inappropriately in most cases and used to "get round" private hire legislation.

Question 13

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

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?

Don't know

Question 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.

Question 16

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

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"?

The proposal brings some clarity but would need more. Currently, a customer entering a private hire office to book a cab could be argued to be in a "public place". Yet the arrangement they have just made is perfectly legal.

Question 18

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

Agree.

Question 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 aspect of existing legislation needs serious consideration. The advances made in modern communications technology have advanced so much that members of the public can book a private hire vehicle from anywhere. One of the biggest issues facing local authorities when dealing with “plying for hire” is whether a driver of a private hire vehicle can “pre book” the vehicle for a passenger when approached.

Question 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, subject to the use being restricted to holders of a valid “hackney carriage/private hire drivers licence.

Question 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.

Yes. Guidance of this type is long overdue and would assist Local Authorities in the licensing process.

Question 22

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

The general public do not appreciate (for the most part) that there is a difference between hackney carriages and private hire vehicles. (hence why unscrupulous private hire drivers manage to unlawfully “ply for hire”). Most people use the generic term “taxi” to refer to both hackney carriage and private hire and so to refer to hackney carriages as “taxis” would remain confusing. It would bring no clarity to the general public’s understanding of the difference between the types of vehicles. A better option would be to replace the term hackney carriage with “public hire vehicles”.

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?

Whilst currently the term ‘taxi or cab should specifically refer to Hackney Carriage Vehicles only private hire firms already do use these terms in their advertising. Members of the public are already confused and unaware of the differences. See answer 22 above.

Question 24

Taxi and private hire services should each be subject to national safety requirements.

Yes.

Question 25

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

Any minimum standards need to be sufficient to ensure the paramount consideration of public safety. There should also be an option for Local Authorities to set higher than standard conditions if they wish. These could be subject to a range of maximum national standards. Any standards imposed should be mandatory

Question 26

National safety standards, as applied to private hire services, should be mandatory standards.

Any mandatory minimum standards need to be sufficient to ensure the paramount consideration of public safety. There should also be an option for Local Authorities to set higher than standard conditions if they wish. These could be subject to a range of maximum national standards.

Question 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 topographical knowledge may not be as important as it once was with the assistance of modern day technology (GPS, Sat Nav etc) however, there remain concerns that such aids may lead to journeys not being by the most direct route leading to higher fares than would be normal for the journey. Local authorities should therefore be given the option to impose such standards if they believe it necessary.

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?

Yes, to enable the public to easily identify that it is a locally licensed vehicle and so that local authorities can continue to have different signage for private hire and hackney hire to assist the public differentiate between the two.

Question 29

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

None. National standards apply in respect of other licensing regimes and work without problems.

Question 30

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

No. Ultimately the outcome for both types of vehicle is the same, transporting the public. Public safety should remain the paramount consideration.

Question 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. Standards, should also cover, comfort and appearance and upkeep of vehicle.

Question 32

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

Yes

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?

Yes. Technical knowledge is essential to the outcome of any consultation before imposing standards as is the knowledge of local Licensing Authorities and their staff who have a wealth of knowledge and experience in licensing "taxis".

Question 34

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

Yes. See answers 25 & 26 above

Question 35

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

See answers 25 & 26 above

Question 36

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

Yes. "One size" does not fit all with regard to operators who range from firms with 1 vehicle to firms with hundreds of vehicles. Licensing authorities are best placed to know the local issues and whether additional conditions are required in relation to operators and 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?

For consistency of approach and application this should be on a statutory footing with legislation dealing with the remit of the "co-operation". Statutory powers should include Licensing Authorities being able to carry out enforcement of drivers and vehicles in their area but licensed in another.

Question 38

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

Yes, only for the purpose of standards and enforcement.

Question 39

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

Yes. Local authorities are best placed to determine whether zones are required in their area or not.

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?

At this time and responding from the perspective of our own licensing authority, there does not appear to be any merit in this.

Question 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?

This is a complex issue and there are many considerations before this could be implemented without issues. These include enforcement, fees, standards, conditions, costs of control and enforcement.

It is considered though that for consistency of approach and enforcement the operator, vehicle and its driver should remain licensed by the same authority otherwise operators licensed in one authority may be using drivers/vehicles from another authority which have different conditions that the operator may be unaware of. Enforcement may also prove difficult.

However, cross border hiring from another licensing locality should not be a bar in itself considering modern telecommunications and that firms sat geographically close to another licensing authority may be a customers preferred firm in any event. Customer choice should be as wide as possible.

Question 42

We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs.?

No comment

Question 43

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

Licensing authorities should not be burdened with setting fares. Private hire companies set their fares based on customer competition which appears to work without problems. There is no reason why the same principle of competition and customer choice wouldn't work just as well for the hackney carriage trade.

Question 44

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

No

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?

All national driver safety standards including the ‘fit and proper person’ definition should clearly be set out in primary legislation.

Question 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself?

No. This authority has had numerous issues with poorly maintained and unfit vehicles not owned by a licensed driver. As the legislation currently stands there is nothing a licensing authority can do to stop that person from presenting further vehicles to be licensed although it knows that there is likely to be further issues in relation to maintenance of the vehicles. Licensing Authorities should have the ability through the fit and proper person test or similar to prevent repeat offenders licensing further 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?

Either option would work

Question 48

Operator licensing should be retained as mandatory in respect of private hire vehicles.

Absolutely.

Question 49

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

Unsure

Question 50

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

Agree

Question 51

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

Yes.

Question 52

Operators should be expressly permitted to sub-contract services.

Yes.

Question 53

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

Yes.

Question 54

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

There are convincing arguments for and against limits being maintained. Currently this authority does limit numbers based on the unmet demand survey being carried out every three years. The pressure to continue to limit numbers comes from the trade itself.

However, we are aware that where limits are maintained and despite the “plate” remaining the property of the council and not being transferable the plate attracts a “grey market value”. Hackney carriage drivers have been adept at developing ways to “sell” those plates on the grey market for thousands of pounds. Removing limits on numbers would ensure that this value was no longer a reason for maintaining limits on numbers.

Removal of limits may initially lead to an influx of new applications for hackney carriage plates but we believe that market forces would soon settle this down and numbers would steady.

Question 55

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

Increased pressure dealing with an influx of applications. Too little rank space, over ranking leading to wider traffic issues.

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. Any pressures from delimiting numbers are more likely to be temporary rather than permanent.

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.

No view either way.

With regard to part 1 above – the driver of the wheelchair accessible vehicle should be doing this already

With regard to part 2 – all ranks in Kirklees currently operate on a “first come first served basis”. A good number of our vehicles (proportionate to overall numbers) are wheelchair accessible, We have received no complaints from the trade that there needs to be extra or special provision for WAV’s

Question 58

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

If it was determined that a LA needed more WAV’s and they had the power to offer such incentives that might assist hitting target numbers. It is not considered though that lower fees for WAVs should be the norm.

Question 59

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

No

Question 60

We do not propose to introduce national quotas of wheelchair accessible vehicles.

Numbers should be left to each licensing authority to determine them having the pertinent knowledge for their area.

Question 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training.

Yes. Kirklees council already by condition of driver application has its own driver training course which includes, inter alia, modules on disability and equalities.

Question 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.

Yes

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 might. However the equalities Act 2010 already includes an obligation not to discriminate against disabled passengers.

Question 64

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

Yes. Licensed drivers will often “try to get away” if they believe they might be required to submit to enforcement officers for inspection. A power to “stop” would be beneficial to regulatory control.

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”.

Statutory guidance and clarity for the use of modern telecommunication systems.

Question 66

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

It would be desirable but the mechanics of implementing such would be difficult. Licensing Authorities are not currently geared up for this. Costs of doing this would be high. Perhaps “impound fees” might assist LA’s on implementing such a power.

Question 67

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

This power to issue FPN's would be welcome particularly for the more minor offences. Would assist LA's in enforcement and encourage the trade to comply if they believed they could receive an instant fine in the event of non compliance.

Statutory guidance would need to be produced for consistency of application and approach.

Question 68

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

Yes. Subject to statutory standards and guidance.

.

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?

Yes. Subject to appeal rights to home authority. There would be many practical "house keeping" issues to resolve also such as reporting to home authority and costs of enforcement across authorities.

Question 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.

Yes.

Question 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 already happens in some authorities. Here at Kirklees the original decision is made at officer level and then ratified or changed by regulatory panel. Would require LA's whose decisions are all delegated to officers to re-implement elected member panels perhaps? Potential for increased workloads for many authorities.

Question 72

Appeals should continue to be heard in the magistrates' court?

Current system of appeals to the magistrates on the whole works well. The only other choice would be a national appeals body similar to the Traffic Commissioner Tribunals or Traffic Penalty Tribunals.

Question 73

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

Only on a matter of law.

From: Paul Fenlon [REDACTED]
Sent: 04 September 2012 16:46
To: TPH
Cc: [REDACTED]

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

Paul Fenlon
[REDACTED]
[REDACTED]

4th September 2012

Ref : Reforming the Law of Taxi and Private Hire Services Consultation 2012

Dear Sir or Madam,

Following the proposals for the possible changes in Taxi Law I hereby wish to provide comment in my capacity as a Licensed Hackney Carriage Driver in Torbay. An occupation I have held for over ten and a half years.

Presently there is a regulated number of hackney carriage licences of 165 in the Torbay Area, of which 6 are seasonal operating from May to September each year to allow for extra demand for seasonal visitors. In addition there exists an unlimited number of private hire vehicles available from the council. Moreover from December 2001 I plied my trade through a company who acted as an agent for a mixture of private hire and hackney operated vehicles both of which could respond to radio work. However the company for whom I worked for just over nine years was sold in March 2011 to an ever increasing private hire company who wanted nothing from the remaining 15 or more hackney carriage licensed vehicles. Thereby forcing myself and a number of other hackney carriages to suddenly become independent and ply our trade solely from Torbay's taxi ranks where customer demand was already more than met. This meant that from March 2011 every hackney carriage driver has found their share of the market reduced considerably and it is not uncommon that even with a regulated number of hackney carriage vehicles it is often difficult to join the back of a taxi rank without parking illegally and thereby causing safety issues, so drivers are forced to drive around a lengthy one way system sometimes 2 or 3 times before joining the back of a taxi rank. Having bought a small flat some 9 years ago based on my income as a taxi driver, my income has now been considerably reduced to the point where I am claiming working tax credit. Moreover I believe it should remain the decision of Torbay Council as to whether to deregulate or not and not come from a national decision which would fail to recognise a town's individual taxi operation which has been nurtured and discovered over many years within changing times.

Furthermore since the recession hit, Torbay has seen a decline in seasonal trade and with many high street shops closing down the levels of business have dropped considerably for Torbay's taxi drivers. Even on a Saturday night (Torbay's peak time for taxis) we have had a situation for some time now where the taxis queue for customers and not the customers queuing for taxis. I would also like to add that many of the individual taxi vehicle licences provide 2 full time incomes from one vehicle and in the winter it is not uncommon for the driver selected to work nights to wait for over 2 hours for a job reducing his hourly rate to less than half of the minimum wage. This is without deregulation of taxi's and private hire vehicles to be allowed to use taxi ranks at peak times, the result of which would destroy the income of Torbay's taxi drivers and their families alike. Not too mention the safety issues of taxi vehicles needlessly creating congestion around taxi ranks but I envisage an almost turf war like scenario whereby drivers would be forced to compete out of desperation for business as opposed to operating with congeniality and etiquette as currently is the case. In regard to taxi drivers being licensed to operate anywhere in the country I believe this would be particularly unfavourable in Torbay as indeed in many other areas where local knowledge is the very essence of a professional taxi driver. For example Torquay has thousands of young foreign language students who visit each year and who often rely on getting home by taxi. They may pronounce the address incorrectly, have no contact numbers, and as with many other visitors be unsure of the price of a taxi locally. These customers require a driver with extensive local knowledge and who should also be regulated on a local and ongoing basis. I believe that allowing taxi drivers to operate outside of a jurisdiction would result in a reduction in the professionalism and standards of a typical taxi driver and would almost encourage a rogue like culture where prices and routes would become increasingly inconsistent and therefore very difficult to govern correctly and within appropriate time frames.

To conclude I believe there are many variables applicable to individual areas and many of these have been recognised and nurtured over time. i.e. What works for one council may not work for another. Torbay itself relies purely on tourism and from a personal point of view if my income as a local taxi driver were to be compromised even further I would find little other available work. As a town with seasonal fluctuations in levels of business I like many other taxi drivers budget in advance for Torbay's peaks

and troughs. I have acquired long term loans including my mortgage based on my future as a taxi driver and I wholeheartedly believe that Torbay Council should be allowed to continue to operate their own jurisdiction based upon the area's needs. The regulation of the number of Hackney Licences in addition to an unlimited number of private hire vehicles being made available has provided Torbay's public with a high standard and competitively priced taxi service where demand is more than met even at peak times while allowing taxi drivers to continue to make a living in this area.

Yours faithfully

Paul Fenlon

cc Adrian Saunders MP, Dr Sarah Wollaston MP

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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. *(Page 160)*

BoP Response:

The hackney carriage (taxi) and private hire trade in Poole is intrinsically linked and performs the following diverse roles:

- Special Education Needs transport children to school
- Social Services transport of disabled people to Day Centres
- Providing access to key essential services such as shopping/hospital for elderly residents/those with mobility problems
- Supporting access to long distance public transport modes eg rail, coach and airport services for both residents and visitors from outside the area
- Providing a public transport service at times and/or to places not served by buses
- Providing a public transport service when conventional bus services are unsustainable particularly in rural areas
- Supporting the growth and development of Poole's night time economy

This work is undertaken by a mixture of taxi and private hire vehicles. Due to the widespread usage and convenience for passengers of booking journeys by mobile phone the work from traditional taxi ranks is diminishing. Many of the taxi owners in Poole therefore accept their own private hire bookings or may be part of a larger circuit.

Fundamentally due to the similarity of the work undertaken by both tiers of the trade the licensing conditions for taxi and private hire vehicles/drivers are therefore almost identical in Poole. The exceptions are vehicle signage requirements and a reduced level of (verbal) knowledge test for private hire drivers.

Whilst there is no question that it is essential that the industry is supported by a modern legislative framework, the Reform proposals seem to further reinforce the artificial divide between taxi and private hire.

In Poole enforcement action is undertaken in order to reduce the "touting" of both private hire drivers and taxis from neighbouring authorities. The problem is exacerbated by the public which fundamentally do not understand the difference between the private hire and hackney trade. A single tier system would be beneficial which would permit any licensed vehicle to be hailed.

The supply of Taxis for immediate hire at ranks could then be delivered by the issuing of permits. These could then be enforced by Civil Enforcement Officers in the same way as we regulate Parking Permits for residents. The numbers of taxis at each rank could then be more accurately tailored to meet demand. In Poole we have over 30 ranks but realistically vehicles concentrate at half a dozen central locations. This would encourage greater provision to the customer across the Borough and avoid over provision/congestion in certain areas.

This method would also potentially enable Local Authorities to maintain/increase numbers of fully accessible vehicles, as this could be made a condition for permits at rail station ranks for example. Areas that do not presently control numbers and have no accessible vehicles would therefore be given a mechanism to ensure that a suitable supply is available in line with the Equalities Act 2010.

CHAPTER 14 – REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform.

(Page 162)

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)*

Question 4

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

BoP Response:

At the BoP we continue to receive applications to operate horse drawn carriages and Pedicabs. There remains a duty to ensure that the public are carried safely and they should therefore be included in legislation. With increasing environmental awareness there is growing demand for pedicab services in our tourist area. There is a need for national standards for the vehicle specification and minimum driver requirements – CRB, Medical, driving/riding assessment.

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)*

BoP Response:

Imaginative solutions to the provision of public transport (in rural areas in particular) are required to maintain essential accessibility to key services. A background of decreased subsidy (both locally and nationally through grants such as BSOG) will result in fewer bus services and greater usage of smaller vehicles on demand responsive routes.

There is a need to encourage more bus operators to operate smaller vehicles (and conversely encourage taxi operators to run vehicles larger than 8 seats) to engender competition and achieve economies of scale. This will assist in controlling council costs for Special Educational Needs and Education Transport in particular.

The more recent change to allow bus operators to operate 10% of their fleet as smaller vehicles has been welcomed. Similarly hackneys and phvs can now operate registered local bus services. However, both these measures have yet to produce the step change required to meet future needs. Realistically whilst there are over 350 individual licensing districts nationwide (with differing standards/fares) the innovative use of smaller vehicles is inevitably going to be restricted.

National Licensing would be the ideal (with nationally recognised standards such as the Driver CPC), with the Traffic Commissioner framework having obvious synergy. The opportunity could also be taken to simplify and incorporate the rules regarding the operation of Limousines and minibuses, which again fall between the two current regimes. Alternatively, Taxi and P/H Licensing could in the future be a County / Unitary function. The recent change away from the districts for Concessionary Fare administration has been welcomed by bus operators in particular and there could be similar efficiency gains if applied to taxi/ph licensing.

Provisional proposal 6

References to stage coaches charging separate fares 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)*

BoP Response:

We agree – There is growing demand for these types of services which is essentially private hire work. CRB checks should be mandatory for all limousine drivers regardless of the number of seats in the 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)*

Bop Response

There is a need for very clear legislation to ensure that any concessions cannot be exploited as loopholes to avoid the licensing process.

Question 9

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

(a) carpooling; and

(b) members clubs? *(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 taxi and private hire licensing regimes. *(Page 171)*

Bop Response:

Yes, but there is a need for very clear legislation to ensure that any concessions cannot be exploited as loopholes to avoid the licensing process.

Provisional proposal 11

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

Bop Response:

There is a need for very clear legislation to ensure that any concessions cannot be exploited as loopholes to avoid the licensing process.

Precise definition as to what is covered by 'being used in connection with a wedding' is needed to avoid ambiguity. Vehicles used solely as hearses should not 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)*

BoP Response:

The Council is a significant customer for taxi services for special educational needs and social services transport. The removal of contract exemption has not significantly impacted upon the costs of providing this transport and has been welcomed by the rest of the taxi trade as providing a level playing field. If vehicles carrying out contract work are not licensed as part of the taxi licensing regime then the administrative burden passes to the individual Council departments. This previously resulted in a duplication of work, databases, checking of CRB's etc.

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 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)*

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)*

BoP Response -

Within Poole the taxi and ph trade is of near equal standard so it makes little sense therefore for licensed vehicles to be unable to be hailed at the side of the road. Our work through focus group such as the Poole Opinion Panel have shown that the public just want to get home safely and as quick as possible and they do not understand the difference between the two types of vehicle or see the need for it. It is suggested that the Law Commission should actively consult with ordinary taxi users. We note that Passenger Focus have recently undertaken comprehensive surveys of bus passengers views and levels of satisfaction and it is suggested that they could undertake this work very effectively.

Provisional proposal 16

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

BoP Response – as per Proposal 15

Should a two tier system be maintained then we agree with the proposal above.

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)*

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)*

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)*

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)*

Provisional proposal 22

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

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)

CHAPTER 15 – A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

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

BoP Response:

Both taxi and private hire vehicles should be subject to national safety requirements.

Provisional proposal 25

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

Provisional proposal 26

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

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)

BoP Response:

Local knowledge is felt to be valuable to drivers, especially in a tourist area, and there should be a level playing field for both hackney and private hire drivers, both therefore should be subject to standards such as topographic knowledge tests.

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)*

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)*

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)*

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)*

Provisional proposal 34

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

Question 35

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

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)*

Provisional proposal 38

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

Provisional proposal 39

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

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)*

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)*

BoP Response:

Private Hire Operators should only use drivers or vehicles licensed by a particular licensing authority. There are concerns over any driver working with any vehicle for any company – in the event of complaints there could be confusion over which authority should deal with them.

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. Licensing authorities should not have the power to regulate private hire fares. *(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)*

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)*

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)*

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)*

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)*

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 210)

Provisional proposal 52

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

Question 53

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

CHAPTER 17 – REFORMING QUANTITY CONTROLS

Provisional proposal 54

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

BoP Response:

The Licensing Committee supported the proposal that LA’s should no longer have the power to restrict taxi numbers.

Question 55

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

BoP Response:

An increase in the number of taxis would mean there would be insufficient space on the existing taxi ranks causing congestion.

There could be a higher turnover of drivers as the number of taxis could increase but the work available wouldn’t increase to match (existing drivers may earn less money than before and choose to leave the trade, whilst new drivers may find they do not earn what they had hoped).

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?

BoP Response:

A transitional period should be considered. Since this consultation has been published the selling of hackney carriage plates has however almost completely stopped due to concerns about delimitation.

(Page 215)

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)*

Question 58

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

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)*

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)*

BoP Response:

The Borough of Poole Licensing Committee supported the proposal that national standards for both hackney and private hire drivers should include recognised disability training and that the Driving Standards Agency Taxi and Private Hire Drivers Assessment and a Certificate of Professional Competence should form part of the national training standards.

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.

BoP Response:

The Committee supported this proposal.

(Page 219)

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)*

CHAPTER 19 – REFORMING ENFORCEMENT

Question 64

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

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)*

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)*

Question 67

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

Provisional proposal 68

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

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)*

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)*

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)*

From: [REDACTED]
Sent: 04 September 2012 17:20
To: TPH
Subject: new proposals to include wedding car hire firms

Sir

Please do not remove the exemption for wedding and funeral cars from primary legislation.

I urge you not to include wedding car hire firms in the new proposals.

WE will be priced out the market and will give up our small business.

Yours

Gillian Roxburgh

Kintbury Wedding Cars

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To: Public Law Team (Taxi and Private Hire)
Law Commission
Steel House
11, Tothill Street
London SW1H 9LJ
E mail: tph@lawcommission.gsi.gov.uk

**Response to the consultation on “Reforming the law of taxi and private hire services”
(Consultation Paper 203)**

Cardiff Wales Guided Tours is operated by two qualified Wales Blue Badge Guides who are based in Cardiff, but provide guiding services across Wales. We have been operating for two years, and are keen to add driver guiding to our guiding services; however our discussions with Cardiff County Council have acted as a disincentive to our proceeding along this route, as many of the pre-requisites to our obtaining authorisation seem to us to be inappropriate, given that driving could be considered an ancillary aspect of the service we would provide. Moreover, as members of the Wales Official Tourist Guides Association, it has come to our notice that the standards are not being applied uniformly across Wales by Local Authorities, which we believe is unfair and impacts negatively on our ability to compete with other tourist guiding businesses.

We believe that this consultation process is overdue. Our professional Association (Wales Official Tourist Guides Association) will be submitting to you the comments below which relate specifically to the provisional proposals which have relevance to driver guiding. We are pleased to endorse these comments.

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.

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.

Tourist guiding services include the provision of walking tours and guiding on client’s coaches, but in a rural country such as Wales there is a significant demand for driver guiding services. Some WOTGA members have met their Local Authority’s private hire services requirements and are operating legally as driver guides. However there are a number of others who would wish to do so but face a

number of strong disincentives including being required to undertake tests that are irrelevant to the job they do (e.g. topographical knowledge of a city).

It is also apparent that as driver guiding is one of the 'Grey areas in Private hire licensing' where Local Authorities have been taking different approaches (as described in paragraph 3.66 of the consultation document). Specifically Paragraph 8.27 of the consultation document refers to the situation where driving is an ancillary part of the overall service, giving driver guides as a specific example of this. It is stated that the Department of Transport published guidance 23 suggested that such activities would typically not require a licence, but that this guidance was not binding or consistently applied. The experience of WOTGA members would support this.

We welcome the recognition in paragraph 3.70 of the consultation document that the Department for Transport guidance does not address the position of driver guides (tourist guides who also provide transport), and of the significant problems the private hire licensing regime poses for them, given that the services they provide are very different from those envisaged by the said regime.

We would welcome the devolvement of power to the Welsh Ministers to set national standards in respect of taxi and private hire licensing requirements which would allow them the flexibility to make appropriate exclusions from the licensing regime. This would give WOTGA the opportunity to engage with the Welsh Government directly with the aim of agreeing national standards for driver guides that are appropriate, and equitable across Wales.

Signed: Diana James Cardiff Wales Guided Tours

Date: 4 September 2012

Address: [REDACTED]

Telephone: [REDACTED] [REDACTED]

E mail: [REDACTED]

From: Martin de Little [REDACTED]
Sent: 04 September 2012 20:14
To: TPH
Cc: [REDACTED]
Subject: Wedding cars

Martin de Little
[REDACTED]
[REDACTED]

FAO;

Person or persons within the Law Commission charged with changing the law on the use of Wedding (and funeral) cars.

May I by copy of this email to Anne Milton MP (MP for Merrow) ask her to speak for this letter with Greg Knight MP who is the chair of the "All party parliamentary historic vehicles group".

What is this legislation intended to achieve I wonder? I may be missing something here but one part of Government is removing the requirement for vehicles registered before 1960 to undertake an MOT because such classic cars apparently contribute to only 0.03% of road accidents. Yet, I am unable to find any reference to safety issues in the proposed legislation against the use of such vehicles as wedding cars. The inference would seem to be that we look after our cars, and drive them very safely but, are deemed to somehow present a risk when using that same car to carry a bride to and from the church (or wherever). The lack of any intellectual rigour in this proposal surely belongs to the "Jim Hacker" world of governance ?

Is anyone able to tell me how and why wedding cars (ditto funeral cars) are deemed to be part of "The Transport Industry". Do the people fomenting this legislation not have families, do they never attend weddings? Have they never seen a beautiful old car turn up outside the church driven by some elderly bloke in a crumpled suit (like me) look as if he is part and parcel of whatever Government assumes to be " The Transport Industry" ? I am pleased to advise Government that as a retired school teacher I am in no way linked or affiliated to anyone or anything that might pass as "The Transport Industry".

Do the proposers of this legislation want only licensed black cabs, dodgy minicabs or nasty American stretched limos providing this service (outside a country church, down a country lane, very appropriate I am sure)? The implication is that that is all that will be left. At best, it is again a product of the Jim Hacker school of governance, at worst it is idle and sloppy thinking .

The use of a classic car to deliver the bride and for her to make her grand entrance at the church, stately home or wherever is a tradition that goes back a very long way. It seems that this intended legislation would sweep all of this away to no apparent purpose and to the advantage of no one. However , even Jim Hacker would probably realise that the use of classic cars as wedding cars would continue, but this time they would not have the appropriate insurance for such purposes such as i and others who occasionally carry a bride – naturally - take out because we are the very same people who look after our cars and drive them safely and within the law.

Ask yourself gentle reader, what will you have achieved by abolishing the use of privately owned classic cars for weddings ?

Yours faithfully,

Martin de Little BA (Hons).

Good7



Traction Avant Normale. Specially chosen by the bride because her late father had one of these.
You would have to have a heart of stone to not appreciate the significance of the car on this special day.



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From: Wedding-Car.co.uk Enquiry [REDACTED]

Sent: 04 September 2012 22:06

To: TPH

Subject: Exemption for wedding and funeral cars from primary legislation

We would like to object to the clause wanting to “remove the exemption for wedding and funeral cars from primary legislation”

Please consider the following information regarding the wedding car industry.....

Like other wedding car companies, we are not a private hire / taxi company and operate in a completely different way to them. I would like to ask that you take the information detailed below into consideration before any change in legislation is recommended. The information below relates to our business, however, I believe it to be typical of this industry.

1. The cars are normally used once or twice a week throughout the wedding season (April – September), usually on a Saturday – sometimes we get Friday weddings too – it is very rare for a car to go out on any other day – the cars only go out for weddings – out of the wedding season the cars still go out but not very often.
2. Our wedding cars have to be 100% correct, they have to be the best that they can be and as reliable as we can make them – We have a big responsibility on the wedding day and the thought of a vehicle not getting the bride to the church on-time does not bear thinking about – as well as the cars being right, the driver (chauffeur) has to be right too as the role our uniformed chauffeurs play on the day is so often far more than just a driver – as our many letters and testimonials from our customers show. This is not so of a Taxi or Private hire business.
3. The cars are not used for the majority of the week; they are stored in controlled conditions during this time – this is not the case for private hire / taxi vehicles.
4. Our cars would never attend more than one wedding per day per car – again not so for a private hire or taxi business.
5. If a wedding is not local, then our historic vehicles are transported to the wedding area to save wear and tear on the vehicles – generally our historic vehicles do not cover many miles per wedding or per year.
6. The annual mileage on our wedding cars (whether vintage or modern) is low – actual average mileage for the last 3 years is as follows.....
 - a. Our most popular modern car average mileage per annum over last 3 years = 1,797 miles
 - b. Our most popular vintage car average mileage per annum over last 3 years = 706 miles
7. The cars are kept in show-room condition, they are cleaned inside and out and always mechanically checked each and every time they go out – this is unlike taxi and private hire vehicles.
8. Our main cars are Vintage and Classic cars, expensively restored to perfection and maintained regardless of cost.
9. The modern cars are also dedicated wedding cars, they can go out as stand-alone wedding cars but they tend to be used as a second car, plus, they go out to support the vintage cars even when not booked directly on that wedding – the modern cars are essential to support the older vehicles and to the very important smooth running of the day.
10. Our vintage and modern cars are never driven fast at weddings; it is too important a day to rush about.
11. There is not a large margin in profit for us given the cost of looking after the vintage / classic / modern wedding vehicles. We have the cost of our chauffeurs, storage in controlled environment, fuel, insurance,

maintenance, etc, all this with the small amount of usage would mean that any increase in our operational costs (i.e. overheads) due to new unnecessary legislation would understandably not be welcomed and it would make it much harder for us to survive in these straightened times. The wedding industry is, like most industry at the moment, in a recession - any increase in our operational costs would mean an increase in cost for our customers This will at worst, kill off the age-old tradition of a classic / vintage wedding car.

12. The majority of our business is through recommendations; if our cars and service were not perfect we would not be in business. Our customers already regulate this industry.

13. Some of our bookings are taken 2+ years in advance – this is not the case with taxi or private hire vehicles.

14. Our drivers are generally classic / vintage car enthusiasts who work for us part time as the business is part time – all of our uniformed chauffeurs have regular full time employment or are retired. We are unable to offer full time employment in an industry which is seasonal and part time.

15. There are very few outside companies that would have the expertise to look after our vehicles, we really are the experts in this field and have been doing this successfully for a long time now – when one of our old vehicles goes for an MOT we do not take the car to the local MOT station, we take the car to an MOT station who specialise in historic vehicles and understand how they work (so different to a modern car). The thought of taking our cars to anything less than a specialist who knows the older cars for an annual check does not bear thinking about.

To summarise

We are a specialist company who work within a specific industry, we do not provide the cars as a taxi service (a taxi service is a means of getting from a to b) but as a bespoke service to somebody as part of their very special day.

I understood the Law Commission was trying to dispense with red tape and wanted to simplify things, well the wedding car industry is a specialist industry which would not survive if the cars or the service they provided was anything less than first class – please do not treat our business as a taxi / private hire company – and please do not add unnecessary red tape.

Our cars cannot comply to the taxi / private hire regulations as set by the local council, it is impossible for them to do so given their age and cost prohibitive given the low mileage that our cars cover – our drivers do more than just drive, they offer a service and like the cars they drive, they take a leading role in a very special day.

I have never heard of any issues or safety concerns regarding the wedding car industry. At all times the companies that provide these beautiful vehicles are under the eye of many, many people.

Please do not destroy this industry and the great British tradition of a beautiful classic or vintage wedding car by unnecessary legislation.

Please do not hesitate to contact us for more information.

Yours sincerely

Ray & Sue Cope



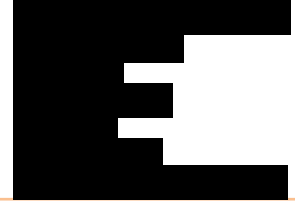
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Wedding Car Hire - [REDACTED]

[REDACTED]
07578 038 491

Wedding, Portrait and Event Photography - [REDACTED]

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EDDIE WILES

13 December 2012

Public Law Team (Taxi & Private Hire)
Law Commission
Steel House
11 Tothill Street
London
SW61H 9LJ

Dear Sir / Madam

I have been a licensed Liverpool Hackney Owner / Driver since the 9th March 1981 and at present own 3 cabs. I purchased all 3 hackney plates.
I most strongly disagree with the way that The Law Commission has dealt with my trade.

Consultation has there been any?

In your report you state that there are approximately 250000 Hackney and PHV's in England and Wales how many have **not** been consulted? In my estimation 70% of the trade has no idea what is happening. Is this legal?

During your road shows around the country how many PHV drivers have you spoken to? When you visited the major PHV Operators (Delta, Blue Line) were there any drivers there for you to speak to?

What would have been the cost to inform every owner / driver of your intentions? I estimate that if you had spent £300k all Hackney / PHV's would have been informed.

Yours sincerely

Eddie Wiles

EDDIE WILES RESPONSE TO THE LAW COMMISSION'S PROVISIONAL PROPOSAL'S AND QUESTIONS WITH DRAFT RESPONSES (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)

Provisional proposal 1 comment

Disagree with this proposal. I strongly advise that it should be expanded to state that phv's are not available for immediate hire. Immediate hire should be defined. (See 15 & 16)

CHAPTER 14 – REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

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

Provisional proposal 2 Comment

Disagree London have a different view than most of the country if you don't allow them some autonomy it could lead to PH being called Minicabs throughout England and Wales causing more confusion to the general public

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 3 Comment

Agree 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.

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 comment

I do not consider that 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)

Provisional proposal 5 comment

I agree with this proposal it would stop the likes of any vehicle over 8 seats being licensed as Hackney or PH ensuring that larger vehicles come under the PSV rules and regulations which at times can be more stringent

Provisional proposal 6

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

Provisional proposal 6 comment

I agree with this proposal All taxis will then be able to accept stage fares whether running as a taxi bus or not?

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 7 comment

I disagree Under the Secretary Of State, action may not be taken and status quo will remain and therefore they must be included in these proposals in Liverpool there are Party Busses aimed to target Stag and Hen parties they take their passengers to pubs and club's without any type of license also its know extremely popular for parents to hire stretched limos for their children sometimes as young as seven. Are these owners / drivers "fit and proper persons" (see 46 & 47)

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)

Provisional proposal 8 comment

I disagree I feel that child minders and carers should be excluded from these proposals but all other groups should be included.ie Community Transport groups for example, they may not have CRB checks on numerous drivers The concept of 'hire / reward is the important one; carriage in such high volume that the consideration becomes profitable is the tipping point.

Charities should not be exempt simply because of the lack of consideration for a specific journey. E.G seaman's hostels take people shopping – this is not charitable they act as commercial hostels for shipping companies, this work is carried out in vehicles owned by the charity but these trips are not charitable.

Carriage of passengers alone is dealt with above.

Question 9

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

Carpooling; and

Answer Question 9

Carpooling exists and is fine when used for persons going to the same place of employment, but any form of technological advertising outside the workplace should be illegal as it will open to abuse by taxis /phv's seeking to gain monies going back to their licensed area, The concept of 'hire / reward is the important one; carriage in such high volume that the consideration becomes profitable is the tipping point (see 1, 15 & 16)

Members clubs? (Page 170)

Pink Lady was a members club and that was illegal how could members be regulated to ensure safety of passengers plus are they recommending that members clubs can be hailed without the correct Licence and Insurance. A commercially provided service involving remuneration must be within the scheme of the legislation; if it is not 'social & domestic 'it should be licensed

.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)

Provisional proposal 10 comment

I agree with this proposal.

Provisional proposal 11

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

Provisional proposal 11 comments

I agree they should be included as they also double up as chauffer driven vehicles

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 Question 12

I do not agree with reintroducing contract exemption I believe that this would create future problems for vulnerable passengers with transport companies using temporary drivers and carers with no CRB checks or be "fit and proper persons" (see 7, 46 & 47)

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)

Provisional proposal 13 comments

The "public place" definition is modern compared to "plying for hire" and is susceptible to the differentiation between the trades as described above.

S110 (5) of the County of Merseyside Act provides that "for the purpose of S 53 of the 1847 Act "street" shall include any air or sea terminus, and approaches thereto, any car park, any hotel forecourt and any unenclosed land within 6 metres of a street" – with a saving against a hackney "standing for hire" in a local authority metered spot!

The section must be universal, areas with no taxis may zone with neighbouring authorities.

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)

Answer Question 14

S110 (5) of the County of Merseyside Act provides that "for the purpose of S 53 of the 1847 Act "street" shall include any air or sea terminus – (see 13)

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)

Provisional proposal 15 comments

I agree with the principle that the definition of "plying for hire" would benefit from being defined in statute. However (see 1, 15 & 16) Pre – booked yes. Operators using "in vehicle bookings" should be taxis not PHVs. That is technology involving a booking passing directly to a vehicle without passing through an operator with a separately licensed base. At the present time, I do not fully understand the relevance of making reference in the definition to the legitimate activities of private hire vehicles and therefore seeks clarity of this

The "public place" definition is preferred.

Provisional proposal 16

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

Provisional proposal 16 comments

I disagree (see 1 15 & 16) above Pre – booked yes. Operators using “in vehicle bookings” should be taxis not PHVs. That is technology involving a booking passing directly to a vehicle without passing through an operator with a separately licensed base.

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)

Answer Question 17

Yes there may be merit in exploring the Scottish approach as it appears to remove the intentions of the driver from the equation.

Provisional proposal 18

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

Provisional proposal 18 comments

I agree with this proposal

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)

Provisional proposal 19 comments

I disagree (see 1, 15 & 16) above Pre – booked yes. Operators using “in vehicle bookings” (not data sent by a licensed operator located elsewhere) should be taxis not PHVs. That is technology involving a booking passing directly to a vehicle without passing through an operator with a separately licensed base.

The “public place” definition is preferred

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)

Provisional proposal 20 comments

I disagree this is a way for un-licensed family members to engage the public as a licensed taxi driver which could create endless problems.

The law should stay as it is, which states that you have to be licensed to drive a licensed vehicle also as a licensed vehicle the law does not permit you or your passengers to smoke, if it could be used by any family member how can you protect the fare paying passengers from passive smoking

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)

Provisional proposal 21 comments

I agree to guidance yes. A licensing authority should not be bound by the phrase or similar saying ‘must have regard to’ as such means the guidance provides that the ‘guidance’ act as a statutory straightjacket.

Provisional proposal 22

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

Provisional proposal 22 comments

I agree with this proposal

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)

Answer Question 23

*I strongly disagree with this proposal because it would inevitably blur the distinction between the two types of vehicle even with the qualifying word “pre-booked”. PHV’s would mislead the public by adapting their signs pre-booked TAXI or pre booked CAB passengers would only see **TAXI** or **CAB** phv’s should not be allowed to use the word TAXI or CAB in any form of advertising and there should not be any prefix or suffix to the word TAXI or CAB when referring to PHV’s*

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.

CHAPTER 15 – A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

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

Provisional proposal 24 comments

I agree without discriminating against the Hackney trade as all should be treated equal (as in Liverpool)

Provisional proposal 25

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

Provisional proposal 25 comment

I disagree, See proposal 24

Provisional proposal 26

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

Provisional proposal 26 comments

I do 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.

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)

Provisional proposal 27 comments

I disagree The proposed definition of both Taxi & PHVs (see 3 above) encompasses providing vehicles to carry passengers to apply different standards for the same function (with different booking arrangements only) has NO logic or intellectual rigour.

Topographical knowledge was not provided for in London, and as such operates to regulate numbers in that context if to a consistent rigour, the Steven Norris idea was that a PHV passenger knew where he was going as the arrangement was for private hire car. The extent of the topographical test should remain with the licensing authority.

In Liverpool for example a hotel may arrange a booking for a tourist with a PHV who has no local knowledge and neither does the passenger

Note also that a sat nav is not foolproof, and is not a substitute in these cases for some actual knowledge.

Interestingly cartographers include some errors deliberately so as to be able to check copyright!

The Proposal does lend itself to a lower standard, for one trade

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)

Answer Question 28.

Only Hackney Cabs should be allowed to have illuminated signs. Section 111 of The County of Merseyside Act prohibits use of the word cab or taxi on signage & is recommended.

A taxi should have yellow / orange roof light whose dimensions are [e.g. not less than 8 x 3 inches or greater than 12 x 5 inches] thereby adopting a national standard to identify a taxi. This should extend to saloon vehicles used as a taxi

Roof signs should be prohibited on PHVs.

Question 29

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

Answer Question 29.

None all standards should be equal what is the reason for more burdens on the hackney trade geographical reasons do not stand up

Question 30

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

Answer Question 30.

No all drivers of hackney and phv's should be safe to do a job of work and have the same expertise

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)

Provisional proposal 31 comments

Localism is fine, providing there is continuing consultation

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)

Provisional proposal 32 comments

I agree 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)

Answer Question 33

A collaborative and consultative approach is required. Both national authorities (VOSA) 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)

Provisional proposal 34 comments

I agree with this proposal.

Question 35

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

Answer question 35

No local authorities should have the final say

Question 36

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

Answer Question 36

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)

Answer Question 37

Should be local

Provisional proposal 38

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

Provisional proposal 38 comments

I agree provided this is only an option for local authorities to choose to do so where they see fit. However, as stated previously, I consider the power to set local conditions in respect of the private hire trade should be retained by local authorities 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)

Provisional proposal 39.comment

I agree with this proposal. So long as the trade is consulted

Question 40

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

Answer Question 40.

No

It would be un-economical; the cost of vehicle provision would be the same if the standards were the same

Is it suggested that such licenses could be used by vehicles which would be “private hire vehicles” This would only serve to confuse the public as to the two distinct types of vehicle.

There are busy periods, which is true in many trades & professions. That is not to say there is more provision, or that such is economic, an extra supermarket in the week before Christmas? Extra prices to cope with the costs?

There may be a ‘market’ for a part time vehicle, a guy with a pension may well like to work on a weekend, all that may be achieved then is another person’s wage is cut. Measuring market by “cherry picking” is not proper and acceptable regulation, or de regulation.

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)

Provisional proposal 41.comment

I strongly disagree I believe that local authorities should set standards for PHV’s and that “triple licensing remains”

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 42 comments

I strongly disagree with this proposal not to introduce a “return to area” requirement. As stated previously, I am of the view that local authorities are best-placed to decide the conditions and standards necessary to regulate both private hire and taxi trades in their particular areas. As such, I consider that the power to set conditions for private hire licenses in its area should be retained by local authorities.

If the Law Commission does not consider this proposal should be applied nationally then at least individual local authorities should have the power to choose to adopt such a provision locally I am firmly of the view that the presence in its area of private hire vehicles licensed by neighbouring authorities “sitting off”, 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, this is a serious matter particularly when one considers that passengers would not be insured in such cases. It should also be noted that there insurance is calculated on the licensing authority not for the area that they are working

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)

Provisional proposal 43 comments

I strongly disagree not only should Councils should set a rate for HACKNEY CABS they should also set a maximum PHV rate, it would allow the general public to see if they were getting value for money as they could map there route and find the maximum fare that they should be charged as it is they don’t know whether they are getting value for money

Question 44

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

Answer Question 44

No as long as the journey starts and finishes within their boundaries The County of Merseyside Act section 110 provides that if a journey finishes more than 4 miles outside the boundary of a constituent borough then a fare may be negotiated – this provision is recommended.

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 Question 45

I consider 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)

Provisional proposal 46 comments

I disagree, all persons with an interest in Hackney and PHV trade should be fit and proper (see45)

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 Question 47.

I consider that it would be appropriate for national vehicle safety standards to be set out in regulations by the Secretary of State.

Provisional proposal 48

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

Provisional proposal 48 comments

I agree with this proposal also operators should be required to record name, pick up point and destination.

Question 49

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

Answer Question 49.

No.

Provisional proposal 50

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

Provisional proposal 50 comments

I agree with this proposal.

Question 51

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

Answer Question 51

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)

Provisional proposal 52 comments

I disagree when a customer makes a booking they are making it with a company on price and service if its contracted out the customer may not be getting what they requested (may be dearer sub-standard vehicle) may also be from a different licensing authority. Will contracting out make passengers more vulnerable to attack by rogue drivers?

Question 53

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

Answer Question 53

No.

CHAPTER 17 – REFORMING QUANTITY CONTROLS

Provisional proposal 54

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

Provisional proposal 54 comments

I strongly disagree with this proposal. It seems to have been suggested without any evidential basis that it would, as a matter of fact, benefit the consumer. Indeed it seems to be based on the vague assertion that it would be “a step in the right direction”.

At the present time, I do not believe that the current limit on taxi numbers should be lifted and consider that it should be left to local authorities to have the right to make that decision subject always to general public law principles and judicial review. The fact that many authorities which have removed the limit on numbers have subsequently chosen to re-impose a limit serves to emphasize that it is very much a decision which is best determined locally taking all relevant considerations into account.

Congestion

If these proposals are excepted the unlimited amount of Taxis attempting to find rank spaces and driving around city centre’s will I believe cause major traffic problems not just to normal commuter traffic but more importantly to the emergency services.

When compiling these provisional proposals did the Law Commission considered or seek the advice from City Councils Highways and Transportation Manager’s, and take into account Section 16 of the Traffic Management Act 2004. This statutory duty requires City Councils to manage their road network so as to secure and facilitate the expeditious movement of traffic. In performing that duty City Councils are expected to take action to secure the more efficient use of their road network and eliminate, reduce or avoid road congestion.

Liverpool’s 1426 taxicabs provide a day and night provision for users and the delivery of taxicab services are sustainable. We have a large number of taxicabs working at night due to double shifting of drivers who work nights as there is a limit on taxicab numbers.

Question 55

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

Answer Question 55

*Congestion of city centre's due to over ranking
Increase in air pollutants
Drivers working longer hours
Safety of passengers through drivers working longer hours
Increase in family breakdown through driver hours and lack of earning
Lack of investment in new vehicles
Poorer maintained vehicles*

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 Question 56

I do 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

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 Question 57

No all hackneys should be wheel chair friendly Authorities should make every effort to make taxicab stands suitable for the access of persons using wheelchairs.

Question 58

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

Answer Question 58

No we should have the same style of 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)

Answer Question 59

All Taxis should be wheelchair accessible PH included; 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)

Provisional proposal 60 comments

Disagree all Taxi's / PHV's should be WAV's

Provisional proposal 61

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

Provisional proposal 61 comments

I agree to awareness 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)

Provisional proposal 62 comments

I agree with this proposal Notices are already posted in Hackney Cabs alongside the fare sheet PHVs should also display their tariff and complaint procedures

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 Question 63.

I agree in principle with a new “duty to stop”

CHAPTER 19 – REFORMING ENFORCEMENT

Question 64

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

Answer Question 64

I do not agree with this as there is not a recognized uniform

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 Question 65

Touting or illegal plying for hire in my opinion most touting is done by PHV drivers and if enforced this will stop a lot of illegal hiring

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 Question 66

Yes but only if they were not licensed or uninsured

Question 67

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

Answer Question 67

No

Provisional proposal 68

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

Provisional proposal 68 comments

I agree with this proposal – however on Merseyside boroughs appoint each other’s enforcement officers.

Question 69

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

Answer Question 69

Yes by allowing the enforcement officers where the offense was committed to prosecute

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)

Provisional proposal 70 comments

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)

Provisional proposal 71 comments

Agree within a 1 week timeframe

Provisional proposal 72

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

Provisional proposal 72

Disagree the Tribunals Service is a better alternative allowing a person to be comfortable in his own applications.

Question 73

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

Question 73

The Tribunal Service is to be preferred. That service can also go on to deal with appeals and a judicial review, using the court procedure over a taxi licence is far too expensive

TPH 0520(3)



Liverpool-Electronic-Taxi-Union

27 September 2012

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

Dear Hannah

Please see below LETU's reply to the Law Commissions Proposals

LETU (Liverpool Electronic Taxi Union) was formed in June 2012 and is recognised by Liverpool City Council (LCC) as a Trade Representative. This organisation was formed because of the lack of information over the LC (Law Commission's) proposals.

LETU most strongly repute the proposals from the LC; there has been insufficient communication with the HC (Hackney Carriage) and PVH (Private Hire Vehicle) trade.

Who represents the PHV drivers?

We have asked numerous PHV drivers from all areas whether or not they had heard of the LC's proposals. 95% of those asked had no idea who or what the Law Commission is. Even our own trade HC have very little knowledge outside the major cities of your proposals. Is it in your remit to consult with the all HC & PHV industry or just a chosen few? We estimate that for £350k the whole of the Taxi & PHV industry could have and should have been given notice of your intentions via mail shot.

Were the emergency services informed?

We know for a fact that the LC did inform the Police Crime Unit at national level but failed to inform Police Road Policing Unit. The Association of Chief Police Officers (ACPO) Road Policing were informed by Merseyside Police and ACPO have replied to in writing to your proposals.

Four months to respond?

As working HC drivers without a law degree we have found it very difficult and sometimes nearly impossible to decipher your proposals, in fact we did email (HG) Hannah Gray on the 13th June 2012 asking if there was or will be an idiot's guide, her reply took up seven lines just to say 'No'.

Was the Easy Read Document brought out because of our request for an idiots guide?

Why weren't we informed of the existence of the easy read document? We did ask for one

Did other organisations or individuals request it also?

Is it the LC's intention to call PHV's 'Minicabs' as in the easy read document? In the original papers the only time Minicabs were mentioned was in relation to London all through the original papers the wording was PHV's

Passenger Safety

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should not be permitted

Children who get into cars up to an hour after an adult has smoked cigarettes are at risk of health problems in later life, research shows.

But researchers have discovered that many of the dangerous chemicals found in the smoke can actually linger in cars for up to two hours.

Read more: <http://www.dailymail.co.uk/news/article-1371421/Children-risk-cigarette-smoke-cars-hour-parents-light-up.html#ixzz27heEvRlm>

Without borders it will be near impossible for LE (local enforcement) and police to fully protect consumers from un-licensed, uninsured and un-roadworthy drivers and vehicles.

How many predators will this one massive error by the LC release onto the un-suspecting travelling public?

Honey pots like major city centres will have HC's and PHV's from miles around attempting to make a fast buck,

Who will pay for this extra enforcement or indeed is there going to be any extra enforcement?

ACPO have noted this issue as a major concern.

All HC & PHV drivers need to wear a badge with a unique number and also photo ID [this should be a national pre-requisite to being able to drive the general public – for a country that is so obsessed with Health & Safety and in this age of computers and digital cameras this oversight is irreconcilable].

LA's (Local Authorities) leave themselves open to abuse if their HC & PHV drivers do not have a full picture ID [only a number] as these cards can be handed around, with no discernible way of checking, by the passengers, if the badge is with the correct driver.

Knowledge

When a passenger is unfamiliar with the local area they are at the mercy of their driver?

Britain is rapidly growing as a tourist destination most foreign and national tourists don't have a post code. They rely on a local taxi drivers unique knowledge and skills to be able to locate a destination from vague indications of where they could like to go or indeed at times the passenger rely on the taxi drivers local knowledge to suggest places of particular interest.

Vehicle Safety

Liverpool's standard of HC & PHV'S should be implemented across the country as the minimum standard and if Liverpool's standard is found to be inappropriate then a higher standard imposed. HC and PHV do in excess of 25000 hard miles per annum a stringent testing regime is needed.

Driver Safety

If LC proposal for no boundaries are accepted how will drivers obtain local knowledge or are they all to rely on Sat Nav [their not reliable or up to date especially in areas of urban re-development!!!]. Local knowledge enables drivers to safely negotiate new areas/developments within their boroughs

Regulated Areas

There are approximately 91 regulated areas in England and Wales. 5 are in Merseyside (Liverpool, Wirral, Sefton, Knowsley and St. Helens) are all regulated but are not the most expensive for a 2 mile journey. Liverpool is 269th Wirral 282nd Sefton 339th Knowsley 348th and St. Helens 354th there are 363 councils (source Private Hire & Taxi Monthly issue 240 September 2012)

Areas where there are no mandatory orders to be WAV's will have more HC's than PHV's because there is little or no difference in licence fee PHV's will convert to a HC licence. How will this benefit the public? (Carlisle is one LA where this has already occurred.)

Liverpool Electric Taxi Union is demanding the immediate withdrawal of the LC proposals for the Reform of Taxis and PHV's in England and Wales for the following reasons:

- **The total lack of information within the HC & PHV Trade for approximately £350k the LC could have and should have sent correspondence to every HC & PHV driver and owner in England and Wales it is their trade.**
- **England & Wales are now a multi-cultural society and in our trade we have around 45% whose 1st language is not English has any help or consideration been given to them?**
- **Has there been a translation into other languages to help foreign nationals working the HC & PHV trade?**
- **How many ethnic HC & PHV owner / drivers responded to your papers?**
- **Consultation paper was not properly thought out, it should have been written in plain English so that it could be understood by the ordinary layperson and grouped into sections. Instead, we found similar questions scattered on different pages, which we found extremely confusing. Imagine what it must have been like for the foreign nationals working as HC & PHV drivers**
- **Could the LC be in breach of discrimination laws?**

Eddie Wiles Steve Connolly
Liverpool Electronic Taxi Union

September 27, 2012

Page 4

Mr Gary Page a LETU member and former Paramedic wrote the following letter

From: [REDACTED]

To: tph@lawcommission.gsi.gov.uk

Subject: Reform taxi law concerns

Date: Sat, 1 Sep 2012 02:59:57 +0000

I am writing to officially raise my concerns to the proposals to change some of the taxi laws. In particular the laws that would affect traffic congestion such as cross border hiring, baton passing and in particular de restriction of hackney carriage vehicles on the grounds of public safety. I was once a front line emergency paramedic responding to daily 999 emergencies. Each and every call is graded by a dispatcher and is based on certain responses to questions. For example a person suffering a fracture could be graded as a **green call** and an immediate response is not necessary due to it not being an immediate life threatening emergency.

Other more life threatening calls such as a cardiac arrest, where a person is not breathing and no pulse would be graded a **red call** and requires an **immediate response** because it is a real life threatening condition and on this particular emergency drugs, defibrillation and efficient CPR is needed before the brain starts to die after 4 minutes.

The government set out targets for emergency ambulances to reach a patient from time of call to arrival of a paramedic and a **Red call currently is for 98% of emergencies to have medical professionals to reach a patient within 4 minutes from time of call.**

The police and Fire brigade have similar targets to reach victims and crime and it is my fear that all emergency service vehicles will be affected, worsening at peak times affecting public safety and lives will be lost. Congestion is a major factor affecting targets and having an improved taxi service should not be at the expense of our emergency service.

De restrictions to the amount of taxis will increase the numbers of vehicles on our roads, combined with private hire cars increasing and parking on side streets will have an effect on these times. Congestion causes delays and delays cause's problems and death. The public and myself and family expect a rapid response should we be unfortunate to need one. These proposals will put a needless strain on our emergency services and I object to them on the grounds of public safety.

Please could I receive a response acknowledging my concerns and objections?

Yours sincerely

Gary Page

**LIVERPOOL ELECTRONIC TAXI UNION
REPLY TO
LAW COMMISSION'S PROVISIONAL PROPOSAL'S AND
QUESTIONS WITH RESPONSES (IN BOLD)**

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

Provisional proposal 1

LETU agrees with this proposal. We strongly recommend that it should be expanded to state that PHV's are not available for immediate hire. Immediate hire should be defined. (see 15 & 16)

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

Provisional proposal 2

LETU disagrees London have a different view than most of the country if you don't allow them some autonomy it could lead to PH being called Minicabs throughout England and Wales causing more confusion to the general public and nowhere else in this document is the word minicab

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

Provisional proposal 3

LETU agrees with this proposal all types of transport carrying passengers for hire on the public road / place should be subject to suitable regulatory conditions and enforcement.

Question 4

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

Answer

Question 4

LETU does not see any advantages to restricting licensing to only vehicles which require a driving licence would effectively protect the public, this may lead to the public being carried 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)

Answer

Provisional proposal 5

LETU agrees 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)

Answer

Provisional proposal 6

LETU agrees with this proposal

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

Provisional proposal 7

LETU disagrees Under the Secretary Of State, action may not be taken and status quo will remain and therefore they must be included in these proposals in Liverpool there are Party Busses aimed to target Stag and Hen parties they take their passengers to pubs and club's the vehicle and driver do not have any type of license .At present its extremely popular for parents to hire stretched limos for their children's birthday treat sometimes they are as young as seven.

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)

Answer

Provisional proposal 8

LETU disagrees We feel that child minders and carers should be excluded from these proposals but all other groups should be included.ie Community Transport groups for example, they may not have CRB checks on numerous drivers The concept of 'hire / reward is the important one; carriage in such high volume that the consideration becomes profitable is the tipping point.

Charities should not be exempt simply because of the lack of consideration for a specific journey. E.G seaman's hostels take people shopping – this is not charitable they act as commercial hostels for shipping companies, this work is carried out in vehicles owned by the charity but these trips are not charitable.

Carriage of passengers alone is dealt with above.

Question 9

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

Carpooling; and

Answer

Question 9

Carpooling exists and is fine when used for persons going to the same place of employment, but any form of technological advertising outside the workplace should be illegal as it will open to abuse by taxis /phv's seeking to gain monies going back to their licensed area, The concept of 'hire / reward is the important one; carriage in such high volume that the consideration becomes profitable is the tipping point (see 1, 15 & 16)

Members clubs? (Page 170)

Pink Lady was a members club and that was illegal how could members be regulated to ensure safety of passengers plus are they recommending that members clubs can be hailed without the correct Licence and Insurance. A commercially provided service involving remuneration must be within the scheme of the legislation; if it is not 'social & domestic 'it should be licensed

.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

Provisional proposal 10

LETU agrees with this proposal.

Provisional proposal 11

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

Answer

Provisional proposal 11

LETU agrees they should be included as they also double up as chauffer driven vehicles

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

Question 12

LETU does not agree with reintroducing contract exemption we believe that this would create future problems for vulnerable passengers with transport companies using temporary drivers and carers with no CRB checks

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}

Answer

Provisional proposal 13

LETU agrees with this proposal

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)

Answer

Question 14

S110 (5) of the County of Merseyside Act provides that “for the purpose of S 53 of the 1847 Act “street” shall include any air or sea terminus – (see 13)

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)

Answer

Provisional proposal 15

LETU agrees with the principle that the definition of “plying for hire” would benefit from being defined in statute. However (see 15 & 16) Pre – booked yes. Operators using “in vehicle bookings” should be taxis not PHVs. That is technology involving a booking passing directly to a vehicle without passing through an operator with a separately licensed base. At the present time, LETU does not fully comprehend the significance of making reference in the definition to the legitimate activities of private hire vehicles and therefore seeks clarity of this

The “public place” definition is preferred.

Provisional proposal 16

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

Answer

Provisional proposal 16

LETU disagrees (see 15 & 16) above Pre – booked yes. Operators using “in vehicle bookings” should be taxis not PHVs. That is technology involving a booking passing directly to a vehicle without passing through an operator with a separately licensed base.

The “public place” definition is preferred (Section 1(4) of the Prevention of Crime Act 1953 defines a “public place” as any highway and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise.)

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)

Answer

Question 17 comment

Yes there may be merit in exploring the Scottish approach as it appears to remove the intentions of the driver from the equation.

Provisional proposal 18

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

Answer

Provisional proposal 18

LETU agrees with this proposal

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

Provisional proposal 19

LETU disagrees (see 1, 15 & 16) above Pre – booked yes. Operators using “in vehicle bookings” (not data sent by a licensed operator located elsewhere) should be taxis not PHVs. That is technology involving a booking passing directly to a vehicle without passing through an operator with a separately licensed base.

The “public place” definition is preferred

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

Provisional proposal 20

LETU disagrees this is a way for un-licensed family members to engage the public as a licensed taxi driver which could endless problems.

The law should stay as it is, which states that you have to be licensed to drive a licensed vehicle also as a licensed vehicle the law does not permit you or your passengers to smoke, if it could be used by any family member how can you protect the fare paying passengers from passive smoking

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

Provisional proposal 21

LETU agrees to guidance yes. A licensing authority should not be bound by the phrase or similar saying ‘must have regard to’ as such means the guidance provides that the ‘guidance’ act as a statutory straightjacket.

Provisional proposal 22

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

Answer

Provisional proposal 22

LETU agrees with this proposal

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)

Answer

Question 23

LETU strongly disagrees with this proposal of PHV's of using the term TAXI or CAB with any prefix or suffix it would inevitably blur the distinction between the two types of vehicle even with the qualifying word "pre-booked". PHV's would mislead the public by adapting their signs Pre booked TAXI passengers would only see TAXI

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.

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

Provisional proposal 24

LETU agrees without discriminating against the Hackney trade as all should be treated equal (as in Liverpool)

Provisional proposal 25

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

Answer

Provisional proposal 25

LETU disagrees See proposal 24

Provisional proposal 26

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

Answer

Provisional proposal 26

LETU 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.

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

Provisional proposal 27

LETU disagrees The proposed definition of both Taxi & PHVs (see 3 above) encompasses providing vehicles to carry passengers to apply different standards for the same function (with different booking arrangements only) has NO logic or intellectual rigour.

An attempted short definition of intellectual rigour might be that no suspicion of double standard be allowed: uniform principles should be applied. ""The rigour of

Topographical knowledge was not provided for in London, and as such operates to regulate numbers in that context if to a consistent rigour, the Steven Norris idea was that a PHV passenger knew where he was going as the arrangement was for private hire car. The extent of the topographical test should remain with the licensing authority.

In Liverpool for example a hotel may arrange a booking for a tourist with a PHV who has no local knowledge and neither does the passenger

Note also that a sat nav is not foolproof, and is not a substitute in these cases for some actual knowledge.

Interestingly cartographers include some errors deliberately so as to be able to check copyright!

The Proposal does lend itself to a lower standard, for one trade

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)

Answer

Question 28.

Only Hackney Cabs should be allowed to have illuminated signs. Section 111 of The County of Merseyside Act prohibits use of the word cab or taxi on signage & is recommended.

A taxi should have yellow / orange roof light whose dimensions are [e.g. not less than 8 x 3 inches or greater than 12 x 5 inches] thereby adopting a national standard to identify a taxi. This should extend to saloon vehicles used as a taxi

Roof signs should be prohibited on PHVs.

Question 29

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

Answer

Question 29

None all standards should be equal what is the reason for more burdens on the hackney trade geographical reasons do not stand up

Question 30

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

Answer

Question 30

No all drivers of hackney and phv's should be safe to do a job of work and have the same expertise

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

Provisional proposal 31

LETU agrees with this proposal so long as PHV's standard is as the same as Hackney Carriages

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

Provisional proposal 32

LETU 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)

Answer

Question 33

LETU believes that a collaborative and consultative approach is required. Both national authorities (VOSA) 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)

Answer

Provisional proposal 34

LETU agrees with this proposal.

Question 35

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

Answer

Question 35

No local authorities should have the final say

Question 36

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

Answer

Question 36

Yes. As in Q35

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

Question 37

Should be local

Provisional proposal 38

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

Answer

Provisional proposal 38

LETU agrees provided this is only an option for local authorities to choose to do so where they see fit... However, as stated previously, LETU considers the power to set local conditions in respect of the private hire trade should be retained by local authorities 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)

Answer

Provisional proposal 39

LETU agrees with this proposal. So long as the trade is consulted

Question 40

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

Answer

Question 40

LETU disagrees

It would be un-economical; the cost of vehicle provision would be the same if the standards were the same

Is the Law Commission suggesting that such licenses could be used by "private hire vehicles" This would create more confusion for the public

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)

Answer

Provisional proposal 41

LETU strongly disagrees we believe that local authorities should set standards for PHV's and that "triple licensing remains"

Provisional proposal 42

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

Answer

Provisional proposal 42

LETU strongly disagrees with this proposal not to introduce a "return to area" requirement. We believe that local authorities are best-placed to decide what conditions and standards are necessary to regulate both private hire and taxi trades in their particular areas.

LETU firmly believe that private hire vehicles licensed by neighbouring authorities and ranking in large numbers at key positions and at peak times are illegally plying for hire.

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

Provisional proposal 43

LETU disagrees not only should Councils should set a rate for HACKNEY CABS they should also set a maximum PHV rate, it would allow the general public to see if they were getting value for money as they could map there route and find the maximum fare that they should be charged as it is they don't know whether they are getting value for money

Question 44

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

Answer

Question 44

No as long as the journey starts and finishes within their boundaries The County of Merseyside Act section 110 provides that if a journey finishes more than 4 miles outside the boundary of a constituent borough then a fare may be negotiated – the provision is commended.

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

Question 45

LETU considers that national driver safety standards should be a mandatory requirement for all drivers. 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.

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)

Answer

Provisional proposal 46

LETU disagrees, all persons with an interest in Hackney and PHV trade should be fit and proper (see45)

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

Question 47

LETU considers that it would be appropriate for national vehicle safety standards to be set out in regulations by the Secretary of State.

Provisional proposal 48

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

Answer

Provisional proposal 48

LETU agrees with this proposal also operators should be required to record name, pick up point and destination.

Question 49

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

Answer

Question 49

Yes as Q 48

Provisional proposal 50

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

Answer

Provisional proposal 50

LETU agrees with this proposal.

Question 51

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

Answer

Question 51

Yes fit and proper should be retained

Provisional proposal 52

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

Answer

Provisional proposal 52

LETU disagrees when a customer makes a booking they are making it with a company on price and service if its contracted out the customer is not getting what they requested (may be dearer sub-standard vehicle) may also be from a different licensing authority. Will contracting out make passengers more vulnerable to attack by rogue drivers?

Question 53

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

Answer

Question 53

No.

Chapter 17 – reforming quantity controls

Provisional proposal 54

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

Answer

Provisional proposal 54

LETU strongly disagrees with this proposal, and firmly believes that Local Authorities should have the right to decide

The fact that many authorities which have removed the limit on numbers and have subsequently chosen to re-impose a limit serves to emphasize that it is a decision which is best determined locally taking all relevant considerations into account.

Congestion

If these proposals are excepted the unlimited amount of Taxis attempting to find rank spaces and driving around city centre's will we believe cause major traffic problems not just to normal commuter traffic but more importantly to the emergency services.

Liverpool has an excellent Hackney Carriage service providing a day and night service to the travelling public 24/7 and if the Law Commission opens the flood gates we firmly believe that taxi provision will be affected for the night users as most drivers will not work the unsociable hours

Question 55

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

Answer

Question 55

Congestion of city centre's due to over ranking

Increase in air pollutants

Drivers working longer hours

Safety of passengers through drivers working longer hours

Increase in family breakdown through driver hours and lack of earning

Lack of investment in new vehicles

Poorer maintained vehicles

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

Question 56

LETU 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

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

Question 57

No all hackneys should be wheel chair friendly Authorities should make every effort to make taxicab stands suitable for the access of persons using wheelchairs.

Question 58

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

Answer

Question 58

No we should have the same style of 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)

Answer

Question 59

All Taxis should be wheelchair / disable friendly unfortunately if the Law Commission proposals are excepted we don't see how this goal can be achieved, as most new Hackney Carriages will be PHV's changing their licenses to Hackney Carriage.

Provisional proposal 60

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

Answer

Provisional proposal 60

LETU agrees with this proposal.

Provisional proposal 61

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

Answer

Provisional proposal 61

LETU agrees to awareness 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)

Answer

Provisional proposal 62

LETU agrees with this proposal Notices are already posted in Hackney Cabs alongside the fare sheet PHVs should also display their tariff and complaint procedures

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

Question 63

LETU agrees 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 authorized licensing officers have the power to stop licensed vehicles? (Page 222)

Answer

Question 64

LETU does not agree with this as there is not a recognized uniform

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

Question 65

LETU are unaware of a touting problem in our area (as opposed to illegal 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)

Answer

Question 66

Yes but only if they were not licensed or uninsured

Question 67

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

Answer

Question 67

No this could put excessive costs on drivers

Provisional proposal 68

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

Answer

Provisional proposal 68

LETU agrees with this proposal – however on Merseyside boroughs appoint each other's enforcement officers.

Question 69

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

Answer

Question 69

Yes by allowing the enforcement officers where the offense was committed to prosecute

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)

Answer

Provisional proposal 70

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)

Answer

Provisional proposal 71

Agree within a 1 week timeframe

Provisional proposal 72

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

Answer

Provisional proposal 72

Disagree the Tribunals Service is a better alternative allowing a person to be comfortable in his own applications.

Question 73

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

Answer

Question 73

The Tribunal Service is to be preferred. That service can also go on to deal with appeals.

This submission is sent on behalf of the Brighton and Hove Private Hire Association, an association of private hire drivers and owners working in the City of Brighton and Hove.

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.

B&HPHA Response

If the regulators could go back to day one, and re-write taxi/PH legislation, then we believe a one-tier taxi service would be what we would have. It is complete madness that a suitably licensed and checked driver, driving a suitably licensed and checked vehicle, has to ignore a customer that tries to flag them down. How can a fully licensed driver and vehicle be 'fit and proper' to pick up a customer from the street, if they have used their mobile, but not 'fit and proper' if the customer has used their arms and hands to engaged the vehicle?

However, sadly, we are where we are.

The one-tier/two-tier issue is a bit of a misnomer as in many areas there are umpteen tiers. From the pub rush crew, up to the executive motors, there could be as many as a dozen or so unofficial tiers, but we believe all licensed vehicles should be taxis, and any driver wishing to operate a novelty or non-standard vehicle should come under the Public Service Vehicles rules and regulations, and be regulated by the Traffic Commissioners.

Let's make it easier for customers, drivers and enforcers, one set of taxi regulations. In the short term it will cause a little confusion, but in the long term customers will understand that if they stick their hands out for a vehicle licensed by their local authority, then it will be able to pick them up legally. This is particularly relevant in a tourist area like Brighton and Hove. We have eight million visitors to our City every year, most of them from outside of the UK. Expecting them to understand that they can flag down some taxis, but can't flag down private hire vehicles, is too much and this confusion often leads them vulnerable to unlicensed vehicles and drivers.

Clearly the removal of taxi restrictions would help alleviate some of the problems caused by the various tiers, but a one-tier unrestricted taxi trade is our preferred option.

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform.

B&HPHA Response

As mentioned in our response to Provisional proposal 1 we believe that a one-tier everyone's equal policy is the best way forward, however if that proposal was adopted London would have to be separated from the rest of us, as the huge gulf between the entry criteria for taxis, and the entry criteria for private hire, could never be addressed.

In short it would lead to either taxi standards declining, or private hire standards increasing drastically, and I'm not sure any of those possibilities are achievable in our life-times. With that in mind we believe that London should have its own act and shouldn't be reformed in line with the provinces.

However if the two-tier (or multiple tiers) proposals are adopted we believe that London should be included within the scope of reforms.

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.

B&HPHA Response

We believe that the existing requirements for licensed private hire vehicles to have a motor have served the trade well since 1976 Act came into being. Clearly having this for taxis leads to difficulties in respect of horse drawn taxis, however there is no reason why a horse drawn exemption couldn't be made.

In respect of people drawn vehicles, i.e. boats and bikes, we believe both should pay no part in the taxi/private hire licensing function.

Question 4

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

B&HPHA Response

The most obvious advantage is that those vehicles have undertaken checks by VOSA, and have been deemed by them to be safe to operate on our roads. It also makes it easier for licensing authorities to reject unsafe vehicles.

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.

B&HPHA Response

We fully support Provisional proposal 5. For far too long unscrupulous people have abused the PSV system to circumnavigate the taxi/PH licensing system. The above proposal will stop it dead in its tracks. Under 9 seats taxi/PH, 9 or over PSV, simple.

Provisional proposal 6

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

B&HPHA Response

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.

B&HPHA Response

We believe that all novelty vehicles should be regulated by the Traffic Commissioners. That also applies to Limos that seat more than 8 passengers. Statutory guidance is the only way these particular vehicles can be governed.

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.

B&HPHA Response

We have concerns that the concept “in the course of a business of carrying passengers” is too narrow. People can make a profit without running a business. We therefore suggest no change to the current definition, which includes the words ‘hire and reward’. Exemptions could be made for genuine volunteers, but the onus should be on them to show that they are just covering their costs, not making thousands of pounds in profit.

Question 9

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

(a) carpooling; and

(b) members clubs?

B&HPHA Response

We don't have any issues with carpooling, as long as the driver is just covering his/her costs, and that can include the hiring or running costs of the vehicle. However if a profit is being made then that shouldn't be exempted from any new taxi/PH act provisions. In respect of members clubs, we believe that they are no different to any other supplier of taxis and private hire vehicles, and should be fully licensed as such. If someone is taking people from A to B for profit, then they need to be licensed.

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.

B&HPHA Response

Provided a full consultation takes place, and there is good reason for the exclusions, then we support such a power.

Provisional proposal 11

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

B&HPHA Response

We believe bringing wedding and funeral vehicles into the licensing system should have happened years ago. Daily we see so-called wedding cars abusing the system by extending their service to include airport runs for the happy couple. It is time this was stopped. In respect of funeral cars, we believe this type of vehicle doesn't abuse the exemptions they currently have, but we are far from convinced they are as safe as they need to be, as between MOTs no-one ever checks up on 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?

B&HPHA Response

The contract exemption was removed for very good reason; in short hundreds of vehicles were abusing it. Case law prior to this repeal shows exactly what lengths unscrupulous people were going to. We therefore believe it should stay repealed.

Provisional proposal 13

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

B&HPHA Response

We agree. Where the customer engages the licensed vehicle shouldn't matter. All provisions should apply no-matter where the customer gets into the taxi/PH. Why should customers have less protection just because they engaged the licensed vehicle on land someone else owns?

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?

B&HPHA Response

The most expensive fleet of licensed vehicles in Sussex are based at Gatwick Airport. This leads to a situation where tourists and foreign business people are typically paying 50% more than the taxi tariff in Brighton and Hove. It is fair to say the drivers are very smart, and the cars are of the highest standards, but naive customers are paying considerably more for a service that could be offered at a far lower rate, if those customers had a proper and informed choice. This situation isn't helped by the Airport only using one provider. If ever a monopoly situation needed sorting, then the provision of taxi/PH at Gatwick is that situation.

Maybe a requirement to show the taxi tariff of the local council, alongside the rate charged by the Airport provider, might help in giving customers some sort of choice.

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.

B&HPHA Response

We agree a statutory definition should be included in any new act. This will make it easier for PH to know what they can and can't do, easier for enforcement officers to take action, more confident in knowing a court will back them up, and inform taxi drivers that sitting around plying away from a rank is also unacceptable. We also welcome the proposal that accepts PH are here to stay and they have to wait somewhere between jobs. PH waiting doesn't always mean plying.

Provisional proposal 16

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

B&HPHA Response

We 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"?

B&HPHA Response

We believe that if the Scottish approach was adopted here it would lead to taxis ranking not just on a rank but all over the place. This could have a detrimental effect on more residential areas. Existing provisions allow for people to object to a rank being adopted, the Scottish proposal would drive a coach and horses through that.

Provisional proposal 18

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

B&HPHA Response

The concept of compellability is something that should be retained. The safe guards we have at present are adequate i.e. iffy customers and out of area jobs can be legally refused. There is an argument that breaches of this rule should have a higher penalty placed upon it, as drivers cherry-picking work is a very serious problem, particularly in the night-time trade.

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.

B&HPHA Response

We have no problem with ensuring that all PH work should go through a licensed operator, but we are concerned that a pre-booking might have a minimum lead time. Normally this wouldn't matter, but many times a customer requests a PH driver to book a second or third car through the PH operator, it would be a very silly situation if the driver had to wait to give that job in, or the operator to give the job out. Pre-booking needs to be defined by words not times.

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.

B&HPHA Response

We fully support this proposal. The majority of licensed PH vehicles don't have PH journeymen; therefore they act as the owners private vehicles as well. It is madness that a partner can't drive that vehicle. It was never an issue before Benson-v-Boyce, but sadly that case has cost the PH trade millions. We understand that some may have a concern that unlicensed drivers may abuse this freedom, but we also believe safeguards can be put in place to ensure it doesn't happen. We like the idea of putting the onus on the unlicensed driver to show that they are not, and have not been working the vehicle. With today's advances in technology, it would be very easy to see if the driver has been working unlicensed.

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.

B&HPHA Response

We fully support the proposal that Secretary of State and Welsh Ministers should have powers to issue statutory guidance for the taxi/PH trade. The taxi/PH trade need a certain degree of certainty, and we are fed up with some of the ridiculous rules that come out of some councils.

Provisional proposal 22

Reformed legislation should refer to "taxis" and "private hire vehicles" respectively. References to "hackney carriages" should be abandoned.

B&HPHA Response

We agree. The Scots have done it this way for a very long time, and they haven't encountered any problems.

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?

B&HPHA Response

To our customers we are all taxis, private hire and hackneys alike. The office I work with do over a million jobs a year, and the owner has confirmed that not one customer ever rings up and asks for a private hire vehicle, they all request taxis or cabs. Therefore we believe it is crazy that private hire operators can't advertise a taxi service. We believe the 'pre-booked taxis' idea is a good way forward. By doing that we can ensure customers ringing for a taxi/PH get into a licensed vehicle, not an unlicensed tout.

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements.

B&HPHA Response

We believe taxi and private hire services should each be subject to national safety requirements, but, as we will elaborate in subsequent responses, we believe it should be open to councils to improve on the basic standard.

Provisional proposal 25

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

B&HPHA Response

We agree on the above proposal, but we think we are getting near the bit we will disagree on.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards.

B&HPHA Response

We disagree with the above proposal. This will lead to a national race to the bottom, in respect of standards. We agree that safety standards should be national, but we believe additional powers should be given to councils to allow them to set higher standards to meet their local needs.

A lot is made in this report, and at various consultation meetings, that customers receiving a substandard service will be able to go elsewhere, but that still means they get a substandard service in the first place. It has also been missed that many customers don't have a real choice when booking a PH. Many bookings are done via free-phones or ordered by the staff at various venues/eateries.

In addition to the above in a tourist area such as Brighton and Hove (eight million visitors annually) we are in competition not with the areas that border us, but with cities throughout the world. We need a very high basic standard to ensure those people come back, and/or spread the word that Brighton and Hove is the place to be.

One could argue that most PH operators will insist on a very high basic standard, but if someone comes along offering a third class service at third class prices, then, in time, the first and second class service providers will have to lower their standards to compete. In short it wouldn't be a spiral up in terms of standards, but a drastic spiral downwards.

However, to a certain extent, we do share the Law Commission's view that councils shouldn't mess around with all PH standards, but we also believe in some instances provisions should be made to allow an increase in standards. Maybe a solution would be for councils to gain permission from central government for improvements if it was for the betterment of customer service. This could include issues such as emission levels, CCTV requirements, and PH drivers needing to pass a local topographical knowledge test.

Another concern that we need to air, on the PH standards issue, is that all the above might not be as detrimental to the existing PH trade in Brighton and Hove if the proposals on lifting the restriction on taxi numbers are adopted. This would allow those existing drivers that want to keep high standards to transfer to the taxi trade, without having to pay £40,000 for a taxi plate. On the flip side however if PH standards are made mandatory, but taxi restrictions remain, then PH drivers and owners would lose out considerably. We would then be left in a situation where we would need to lower our standards to compete with those offering the basic standard, but not have the option of transferring to the taxi side of the trade. It really has to be both, or none.

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.

B&HPHA Response

As alluded to in Provisional proposal 26 we disagree with the above proposal. There needs to be some sort of avenue allowing councils to tinker with standards other than safety. A topographical knowledge test is at the top of that list. It is, in our view, an essential part of the trade. Knowing where you are going, and the best way to get there, isn't something that might be useful from time to time, it is something that customers insist on and could be viewed as a safety issue.

We say that because if drivers don't know where they are going then that will cause conflict between customers and drivers, and also lead to drivers spending more time looking for signs and not concentrating on the road ahead.

We also would like to point out that Sat Navs are not the panacea that those not driving taxi/PH seem to think they are. Courtesy of Taxi Driver Online I would like to repeat what a poster recently put up on their forum, re the negative side of Sat Navs.

- 1) **Sat Navs are great at getting you to a place, but they aren't great at getting you there in a straight forward manner. And Sat Navs are only good if you have the postcode and/or the punter can spell.**
- 2) **Many jobs issued via the radio don't give an accurate destination address. Some give just a zone, or an area.**
- 3) **Many jobs issued via the radio are issued via an automatic booking system, so no destination address can be given.**
- 4) **Girls and guys in the office sometime make mistakes with destinations when taking a booking.**
- 5) **Punters often make mistakes with destinations when they book.**
- 6) **Sometimes punters are going to more than one address or via another address on the way. One might get out at the given address only for another to want to go on elsewhere.**
- 7) **Pubs/clubs/restaurants/hotels when booking for a client just give a pick up address and name.**
- 8) **Sometimes punters don't know the address, just an area and an unnamed landmark.**
- 9) **Does anyone believe it is good customer service to keep punters waiting while the driver checks his maps?**
- 10) **Does anyone believe it is good customer service to charge via the meter when the driver hasn't got a sound knowledge of the area?**
- 11) **There are many 100s, possibly 1000s of firms who have mixed fleets. Does anyone believe it is good customer service to have the same customers charged a different price, and taken different ways, just because the Law Commission believe a PH 'knowledge' is pointless?**

For the above reasons we suggest no-one should be using Sat Navs as a primary source of navigation.

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?

B&HPHA Response

We struggle to see how it can be deemed suitable for councils to set PH signage standards, yet not deemed suitable for them to set PH topographical knowledge standards. Customers generally couldn't give a stuff what signage PH vehicles have, but do care that the driver knows where he/she is going, and the best way to get there.

As mentioned before we support the 'pre-booked taxis' signage idea, and see no problem allowing a council to adopt that policy. We also believe firms should have their own corporate signage on vehicles. It's common for buses (small and large) to advertise their services, so we believe that option should be afforded to all licensed PH operators.

Having a corporate ID helps ensure the right customer gets into the right licensed vehicle that they have booked. This is particularly beneficial to vulnerable customers late at night.

Question 29

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

B&HPHA Response

We don't believe there are any obstacles against setting national taxi and PH standards. Our concern is that they might be set at too low a level, and, in respect of PH, will not be allowed to increase.

We however believe setting these national standards will be a difficult task. Quite how you deal with the finer details such as rust/dents/seat-burns/scratches hasn't been discussed in the document. Or will those finer details not matter? Another concern is with national standards; will drivers/owners license in areas with cheaper insurance yet work elsewhere?

Question 30

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

B&HPHA Response

No. Customers travelling in a licensed taxi deserve the same level of safety requirements as those travelling in a licensed PH. In respect of CCTV we believe that it should be required in all licensed taxi and PH vehicles. Our council has changed its policy to ensure that all licensed Brighton and Hove taxis and PH vehicles will have CCTV by April 2013. Currently vehicles are only being re-licensed if they have a working CCTV system.

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.

B&HPHA Response

As mentioned in a previous answer we believe that standards need to be set for rust/dents/seat burns/scratches. Quite how that would be defined is not an answer we can give. We also believe that the Secretary of State and Welsh Ministers need to have provisions to allow councils to set certain PH conditions applicable to their location. As mentioned CCTV and low level emissions is something that should be allowed if the local PH trade and council request 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.

B&HPHA Response

Any proposals that will affect 250,000 licensed drivers and millions of customers 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?

B&HPHA Response

We agree that the best approach is via a technical advisory panel. However we are concerned that such a panel will consist of the same old names that have led the trade for so long, sitting in an office. We believe that at least 50% of any panel must consist of full-time licensed drivers, be they taxi or PH.

Provisional proposal 34

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

B&HPHA Response

We agree.

Question 35

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

B&HPHA Response

No. Provided full consultation is made with the taxi trade, and a full justification is made for any new standard, then we believe a council should have powers to set that standard. We believe many of the problems the national taxi trade have are based on councils not setting a high enough standard for their licensed taxis and taxi drivers.

Question 36

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

B&HPHA Response

Yes. Councils shouldn't 'fetter their discretion' on any specific license, so having a more flexible approach is a good thing. An example in Brighton and Hove happened when an individual driver was accused of using certain not very nice words. The council investigated, and the outcome was that the driver kept his license on the basis of him always having CCTV (with audio) in any licensed vehicle he drove. Without that option the driver would have either unjustly lost his license, or the bad behaviour would have continued. This way neither happened.

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?

B&HPHA Response

We believe the powers and duties of licensing authorities to cooperate should be on a statutory footing, especially in relation to enforcement. It makes sense for neighbouring councils to share information and enforcement activities. Some councils only have, at best, limited enforcement. This isn't right; the bad boys are at it 24 hours a day, 7 days a week. We need enforcement to match that. Having a duty place on councils to help each other out shouldn't be left to the whim of a lazy licensing officer.

Provisional proposal 38

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

B&HPHA Response

We agree. However many neighbouring areas have very different landscapes. Next to Brighton and Hove we have Lewes which is a very large rural area, compared to our very urban area. That said the other way we have Adur and Worthing Councils who have done exactly what is being proposed, so there is definitely merit in the proposal.

Provisional proposal 39

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

B&HPHA Response

We think taxi zones go against the proposals to lift the restriction on taxi numbers, in that if there is a market for taxis then the market will meet it. Messing around with zones simply leads us back to the situation where fully licensed taxi drivers have to ignore customers in their licensing district, simply because they are in the wrong zone. In short we believe zoning is a restriction on trade, and goes against the deregulatory theme in the report.

The 'honey pot' scenario is also a big fat red herring. Why would people work the town/city centre with many other taxis earning nothing, when there are plenty of customers waiting for them in the outskirts, desperately wanted their service? A restriction (numbers) free taxi/PH trade will meet any demand customers have. Keeping zones if anything maintains the 'honey pot' scenario, as drivers will have no option other than to work that zone.

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?

B&HPHA Response

Our view is that taxi restrictions should go, then we wouldn't need to offer peak time licenses, as all taxi licenses will be 24/7. The only time peak time taxi licenses would have merit is if taxi restrictions remain, and we don't support that idea. However should taxi restrictions remain then allowing licensed PH to become licensed taxis at certain times would be a good move. There is an argument to say it is already happening now, albeit illegally. So making it legal does make sense. But we still don't support keeping taxi restrictions.

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.

B&HPHA Response

We disagree with the above proposal. We understand the report wants to get rid of the ongoing problems associated with cross border hirings, but the only reason we have problems with cross border hirings is because some operators are using vehicles and drivers licensed by councils with lower standards. Once everyone has the same level of PH standard that problem goes. (We would like to repeat here we are opposed to proposals to stop councils improving PH standards above the national basic level)

If the fees, the entry criteria, and the driver and vehicle standards are the same, then why would an operator consider using drivers and vehicles from different areas? In short the above proposal goes against the report's view on national PH standards. We believe you can have one, or the other (or neither), but its pointless having both.

Provisional proposal 42

We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs.

B&HPHA Response

We believe that a ‘return to area’ requirement should be placed on taxis, in respect of out of area drop offs, but that shouldn’t stop them receiving radio work whilst out of area. Taxis are licensed to ply in a district, which should be their main objective. Waiting outside of their licensing area shouldn’t be allowed, unless that wait is for a genuine pre-booked job.

In relation to PH we believe that they should be able to work and wait where they like, and a ‘return to area’ requirement isn’t needed.

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.

B&HPHA Response

We agree that licensing authorities should retain the ability to regulate maximum taxi fares and licensing authorities should not have the power to regulate private hire fares. The alternatives are for either national governments to set taxi fares, or for the drivers themselves. Both of those alternatives have some major flaws. The cost of operating a taxi service will be different throughout the country, especially if local councils are able to upgrade from the basic safety standard. The local cost of living also has to be taken into account when formulating taxi fares. Therefore a fixed national fare would be unfair for customers in low standard areas, and unfair for drivers in high standards areas.

For many years our council has set taxi fares based on an agreed taxi fares formula, which allows local taxi drivers to earn the average wage for the area (via the ONS), taking into account the average running costs for the vehicles the council license. This formula has been copied by many councils throughout the country. It is very simple to work out and impossible to abuse.

One extra point that we believe should be in any new act is a requirement that taxis run the meter rate no-matter where they pick up or drop off. Overcharging for out of town work is rife throughout the country and this abuse needs to be sorted. Another negative by-product is the regular cherry picking of taxi drivers at ranks. Too many taxi drivers refuse (illegally) local lesser paid jobs in favour of waiting for a long distance out of area job where they can charge as much as they like. This needs to stop.

In respect of PH, the market has set their fares since 1976, and we see no reason why they should change. PH has been a massive success, a flexible fares policy is one of the reasons for that success.

Question 44

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

B&HPHA Response

No. The meter is there for good reason, to stop overcharging. Allowing an avenue for overcharging to take place is a recipe for disaster.

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&HPHA Response

We believe the ‘fit and proper’ requirement should be set out in primary legislation. Drivers need to know exactly where they are in simple and easy to read legislation, and not be at the whim of a bunch of clueless councillors. It’s not right that different councils have different levels of ‘fit and proper’ criteria. If basic national standards are to be introduced for drivers, then we need a fixed written definition of what exactly is a ‘fit and proper’ person. Because at the moment it’s a national mess.

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.

B&HPHA Response

We disagree with the above proposal 46. Vehicle owners should be ‘fit and proper’. They are responsible for the upkeep of the licensed vehicle. Yes the vehicle license can be suspended or revoked, but that assumes a proper level of enforcement, when in truth enforcement take place very rarely.

If vehicle owners know they can own as many sheds as they want, in the safe knowledge they will be exempt from any licensing sanctions, then why on earth should they be concerned if their fleet of vehicles aren’t up to standard? They will have no good reason to keep maintenance standards up.

If vehicle owners were exempt from licensing sanctions then the licensing buck would end with the driver, who may not know about any faults, yet get the blame for something that's out of his control.

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&HPHA Response

We believe national vehicle safety standards should be set down in primary legislation. As we mentioned in respect of driver's standards, the taxi/PH trade need to know exactly where they stand. At present we have too many councils using too many different definitions of what is a 'fit and proper' vehicle. We just need the one, and we need it to be crystal clear written down in primary legislation.

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles.

B&HPHA Response

Operators need to be licensed, and to do away with licensed operators will open the doors to the seedier side of society into the licensed PH trade. We don't need the old Glasgow type unlicensed operators anywhere near our trade. Everyone involved in the taxi/PH trade should have some sort of licensing sanctions applied to them should they fall foul of the taxi/PH licensing function.

We also think there is merit in having a joint PH driver/operator license, which would allow drivers to be able to offer their services (legally) away from their main operator. Most drivers who currently do this work often do the work at a lower rate than the main operators charge, and do so without the operators knowing, as many operators forbid drivers working privately.

Question 49

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

B&HPHA Response

We agree that all radio circuits need to be licensed, and be under the same level of scrutiny from the council, and have to adhere to the same level of book keeping as PH operators. Maybe the Scottish idea, of more than 2 taxis constituting a taxi circuit, should be looked at. This would then leave single taxi owners/drivers to go about their business in the same way as they currently do.

Provisional proposal 50

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

B&HPHA Response

We agree that the current definition of operators is appropriate, and doesn't need to include intermediaries. We do though have concerns that such intermediaries have no idea what the law is, and the web sites they operate from are run/operated by people with high technological knowledge, but no licensing background and little idea of what constitutes a legal booking service.

Question 51

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

B&HPHA Response

We agree that the 'fit and proper' criteria for licensed operators should be retained. These operator store and control large amounts of personal data, from drivers to customers. They are also contractually liable should anything go wrong with their bookings. We only want those on the good side of society to be involved in the taxi/PH trade, and having operators from the dark side is something that we don't need, especially in such a cash rich industry.

Provisional proposal 52

Operators should be expressly permitted to sub-contract services.

B&HPHA Response

We disagree with the proposal to allow operators to sub-contract services. The issue is being mentioned by some as a concern that causes the taxi/PH trade huge problems. It is not. The firm that I work with, City Cabs (excess of one million jobs a year) encounter this so-called problem once or twice a year. Their solution is simply to ring up a local taxi/PH operator and pay for a vehicle to do the job, in short re-book the job on the customer's behalf. As I said in these days of online payments and credit cards, it's not a problem. If this is a problem that can't be resolved in that way then maybe an exemption to cater for broken down vehicles can be added to any new act.

Question 53

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

B&HPHA Response

We believe individual taxi drivers shouldn't be required to keep bookings for their normal rank/path pickups, nor any pre-bookings they take. It appears to not have caused any problems for the last 165 years, so we see no good reason for that to change. As opposed to our response to the requirements for larger taxi operators, where we believe records should be kept.

Provisional proposal 54

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

B&HPHA Response

We agree. In the year 2012 we find it amazing that we still have 25% of licensing authorities that restrict taxi numbers. In every licensing area a 100% restriction free private hire service has flourished since 1976. There is no good reason why a 100% restriction free taxi service shouldn't do likewise. However all we hear from those that wish to keep the protectionist restrictions on taxis is a long list of myths that simply do not stand up to proper scrutiny.

We would like to outline some of the myths we regularly come across in our local area, and the reality behind those myths.

Myth

The taxi trade will be financially decimated if restrictions are removed.

Reality

Why? How? We have never seen any stats that show the overall customer base is reduced following the ending of taxi restrictions; in fact it's the opposite as fewer customers walk home or get a bus, due to them being able to get a taxi more easier. So if the number of vehicles is the same (PH just converting to taxis) and the number of customers is the same, then how can anyone be financially decimated?

Myth

Everyone will work the City Centre, including those drivers that are switching from PH, and customers on the outskirts of the City will lose the excellent PH service they currently have.

Reality

Other than those that repeat the above myth, is there anyone seriously saying that all newly licensed taxi drivers will sit in the City Centre ranks twiddling their thumbs whilst all the customers they have been servicing for years are screaming for cabs in the outskirts? It's utter madness to even suggest it. Those customers will receive, at least, the same level of service post the ending of restrictions as they did pre the ending.

Myth

It will lead to a drastic fall in taxi and taxi driver's standards.

Reality

Why? The only way standards will fall is if councils dilute their driver and vehicle standards, or councils stop enforcing existing standards. We haven't come across a single council that is proposing such policies, and we will be amazed if any council subsequently does. If anything the scaremongering from the existing trade is liable to move councils to improve standards.

Myth

The ending of taxi restrictions will lead to more expensive taxi fares.

Reality

There are thirteen councils in the county of Sussex, ten councils that don't restrict, and three councils that do. The average two mile fare (courtesy of PHM August 2012 Taxi Fare list) for the ten councils that don't restrict (actually it's nine as Wealden don't set taxi fares) is £6.01, and the average two mile fare for the three councils that restrict is £6.16.

Myth

Double shifted taxis in restricted areas ensure that customers received a good service throughout the day and night.

Reality

Restrictions of taxi numbers ensure taxi plate barons have an endless supply of slave labour paying way over the top for shifts. In Brighton and Hove the average rental for a day shift is £250 a week, £350 for a night shift, and £500+ for a 24/7 rental. These crazy rates mean drivers are working all the hours god sends to make anything like the national minimum wage. Is being overcharged by a driver working crazy hours good for customers?

Myth

Over-ranking and congestion will increase should restrictions be removed.

Reality

Complete nonsense. As mentioned before most new entrants will come from the existing trade i.e. the trade that's currently servicing the outskirts. More ranks on the outskirts, which are actually serviced by the taxi trade, as opposed to the present system where customers don't gamble that a taxi will be available on an outer rank, will increase the level of choice for those customers and create places for those extra taxis to rank up. In short if there is a lack of ranks, then adopt more of them.

We also believe that our local taxi trade aren't that unhappy with the lack of ranking provision as this helps them in their quest to maintain restrictions. Pointing out to councillors ranks full of cabs helps their restrictions agenda, whereas requesting councillors to adopt sufficient ranks for the number of taxis licensed doesn't.

Myth

All those extra taxis will increase pollution.

Reality

Do people say this when more buses are put on the road, or more trains? No they are received with much fanfare, as it will help keep more of the general traffic off the roads. However taxi owners, and the ill-informed, cry it's the end of the world. In truth the amount of pollution will either be the same, as PH vehicles will just change to taxis

(i.e. no increase in pollution) or it will decrease by giving car owners more choice and increase availability of taxis that can be flagged down.

Myth

Demand surveys keep taxi numbers in line with customer demands.

Reality

If only. Demand surveys do nothing more than give councillors a justification for keeping the status quo. We contacted Halcrow (who have undertaken all of Brighton and Hove's SUD surveys) and asked them how many times they have found SUD since 2009. They replied that they have undertaken 28 SUD surveys and only found SUD in one of them. That came as no surprise to us as they use a flawed formula that they have historically always used. Their view is that because it's been used for so long it must be right. Our view is that is a highly flawed formula that allows councils to restrict, which in turn leads to more surveys for the likes of Halcrow. A bureaucratic merry go round.

Myth

Dozens of councils have lifted restrictions only to re-restrict later.

Reality

About half a dozen councils have re-restricted following concerted efforts from the taxi trade, these re-restrictions have never been consumer led. These are classic examples of 'regulatory capture' where councillors have caved in to have a quiet life. In our view that's quite shameful. For the record both Welwyn Hatfield and Bracknell councils having re-restricted have subsequently re-derestricted. One assumes customers come first in those areas.

As we mentioned in the proposals relating to the one/two tier issue, we believe restrictions are unfair and unjust, and have no place in the year 2012. Which is perhaps why less than one in four councils restrict, down from one in two in 1985. We believe that taxi restrictions have held back the taxi trade, and once taxi restrictions are made a thing of the past, the taxi trade will thrive and be much more adaptable to whatever new customer requirements come to it in the future. In the same way the PH trade has been doing since 1976.

We would also like to put on record the devastating effect it will have on the existing PH trade if we end up with councils being allowed to restrict taxi numbers, yet them not being able to improve on the basic PH standard. This will lead to tens of thousands of PH drivers/owners, in high standards areas, having to down grade to compete on a level playing field with those that are content to offer the basic level of standards. If taxi restrictions go then those PH drivers/owners can move over to the taxi market and keep their high standards. However if taxi restrictions stay then those drivers/owners will have to pay up to £50,000 for a plate allowing them to operate a Brighton and Hove taxi. We need taxi restrictions to go.

Question 55

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

B&HPHA Response

We believe most problems are in the minds of those opposed to the ending of taxi restrictions. Maybe a new duty for councils to increase ranking provisions would help, but other than that it will be fine. In the same way it has been fine in the 90 odd councils that have delimited in the last ten years. The world will not end.

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?

B&HPHA Response

No, the trade will adapt to the new changes a lot quicker if those changes happen without delay. In relation to hardship many drivers in Brighton and Hove received their plates from the council for nothing; they have gained from the scarcity value for many years. As have people who have paid via the grey market for a plate.

Whatever new laws coming out of any new act, will take a few years to come into being, in that time all current taxi owners will profit from the scarcity value. As they all have since 1985 when the government put them on notice that plate values aren't necessarily set in stone.

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.

B&HPHA Response

We are unsure how putting a duty on licensees to give priority to disabled passengers will actually work. Or how it will differ from what happens now. If a customer approaches a rank needing a wheelchair accessible vehicle, and one is there, then that passenger will take it. If the driver refuses to take the passenger in a wheelchair then he breaches existing laws.

In relation to councils having a duty to make adequate WAV provisions, we fully support that suggestion. For too long councils have turned a blind eye to the problem, and they need to come up with proposals to solve the problem, not more reasons to do nothing.

Question 58

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

B&HPHA Response

We believe it would help if councils offered cheaper license fees for all WAVs. It would also help if the government allowed a reduced duty for the fuel they use, in the same way buses get reduced fuel duty.

Question 59

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

B&HPHA Response

Without wishing to go over previous responses to questions and proposals, it's crystal clear that one of the main answers to this question is to remove the powers for councils to restrict taxi numbers. Then the taxi trade will have the ability to adapt to the requirements of all customers. Disabled customers spend a lot of money on taxis/PH, for too long the taxi market has relied (in our opinion) on the customer adapting to taxi needs, not the other way around. Removing taxi restrictions will allow new entrants to offer a proper service to all our customers, and those new entrants will be happy to invest in more expensive vehicles provided they have the financial safe guard of being able to pick up legally from the street.

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles.

B&HPHA Response

We understand the reticence to not want to propose quotas on WAVs, but we feel there is a place where it could, or should be introduced. We believe taxi/PH circuits are doing nothing to address the lack of WAV problems, and they seem to be exempt from the duties being placed on just about every other business in the country, in relation to the needs of the disabled community.

We therefore suggest a duty be placed on licensed taxi/PH operators along the lines that they must have a certain percentage of WAVs on their fleet, with the proviso that the fleet must be 50 vehicles or more for the duty to apply. Larger taxi/PH operators are in better position to address the shortfall of WAVs, as they can offer discounts to WAV owners to entice them to their circuits, or buy WAVs in bulk at discounted prices and claim the VAT back.

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training.

B&HPHA Response

We have no problem with ensuring all drivers are trained for the job they do, but we have deep concerns about the millions of tax payers' money that has been wasted on taxi/PH driver training over the last 5 years. We no longer wish to hear horror stories from the trade

about these get very rich very quick training outfits. We believe a new disability awareness training national standard should be adopted and drivers should pass this as part of their new driver entry criteria. We also believe existing WAV drivers should be able to show that they have been fully trained as to how to safely secure customers sitting in their wheelchairs.

Locally a considerable amount of the existing trade has already undertaken NVQ disability awareness training as part of their new driver entry criteria, and via the free courses arranged for them by the council, thus we see no need to make the training mandatory for all existing licensed drivers.

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.

B&HPHA Response

We have been campaigning for many years for proper signage in taxi/PH to make it easier for customers to complain. We have plate numbers on rear doors, and driver/vehicle badges on the windscreen. However we still take the view that not enough customers make complaints over poor service. Our latest development is mandatory CCTV in all taxis/PH, and we hope that will help.

However most customers complain to the companies involved, if it's a booked job, and we are far from convinced they ever share those complaints with the licensing authority. It is our view that a duty should be placed on all taxi/PH operators that they pass on any customer complaints, whether they view them as valid or not.

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?

B&HPHA Response

We believe a duty should be put on taxi drivers to stop and pick up customers that appear to be disabled. Clearly there will be a number of exceptions to that rule i.e. not aware that the customer was disabled, or not safe to stop, but all things being equal taxi drivers must be made to stop if flagged down by a disabled customer sitting in a wheelchair, or with a assistance dog. Once again we point out that the more licensed vehicles that are actually legally allowed to pick up off the street the better. Currently there are 400+ licensed vehicles in Brighton and Hove that can't pick up those disabled customers. Let's hope not for much longer.

Question 64

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

B&HPHA Response

We fully support any proposals to allow authorised licensing officers to stop licensed taxi/PH vehicles. Once they are probably trained, and suitable safe-guards are put in place i.e. proper reasons for the stopping, and legal redress for drivers that believe they have been stopped without good reason, then there can't be any good reason why licensing officers can't use this power as part of their enforcement activities. In short it's a bit of a no-brainer.

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".

B&HPHA Response

The reasons we have unlicensed vehicles (touts) is due to the penalties being weak and seldom used. Therefore these touts can undertake their dubious activities in the safe knowledge they will not get caught, and if they are they will receive a small fine at worst. Maybe a solution is to make the penalties more severe, and put the touting offence in the same category as driving with no insurance i.e. fixed penalty of £200 and six points on license. That would lead to those touts being caught twice losing their DVLA license.

Allow licensing officers to issue those fixed penalties, and in time touts will dwindle dramatically. Maybe if councils could keep that £200 it would encourage more enforcement activities by licensing officers.

Question 66

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

B&HPHA Response

It would be highly desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules. If vehicles get squashed then they can't be used to re-tout. But it would be unreasonable to squash a taxi/PH vehicle for lights not working, or no spare wheel, or no fire-extinguisher. Stop notices are more than adequate for those minor breaches, But for bigger breaches or repeat breaches, then squash the vehicle.

Question 67

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

B&HPHA Response

We believe that fixed penalties do have a place, such as our suggesting re touting, but we believe they are not suitable for minor breaches such as not wearing a badge. Whereas your report gave that as an example, we say that a £60 fine is not a proportionate penalty for

such a simple breach. We disagree with those that say badge wearing (or not as the case may be) is an important licensing requirement.

We also believe fixed penalties don't need to be assessed objectively; if a driver/owner hasn't committed the offence then he can appeal to the courts. In the end if the evidence is there then the court will convict, if not then the fixed penalty shouldn't have been issued. The nature of the offence shouldn't be an issue.

But generally we agree that licensing officers should be allowed to issue fixed penalties for breaches of a mid to high level severity.

Provisional proposal 68

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

B&HPHA Response

We agree that a properly trained licensing enforcement officer should be able to enforce all licensed taxi/PH vehicles operating in their area. It's complete madness they can't do so at present. They should also be able to do likewise outside of their area if they are on joint enforcement operations.

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?

B&HPHA Response

We have concerns about extending the powers to suspend and revoke licenses not issued in their area. The best way to deal with out of area breaches is to refer the breach to the home licensing authority and let them deal with the breach under their rules and conditions.

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.

B&HPHA Response

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.

B&HPHA Response

We agree.

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court.

B&HPHA Response

We agree.

Question 73

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

We disagree. Once the issue has been dealt with at the Magistrates' Court then that should be the end of the matter. If the court has dealt with the case in an unlawful manner then a Judicial Review is open to those that wish to pursue the matter. We have concerns that councils, with bottomless pits of money, take losses in the court as a slight inconvenience, and can afford to take matters to the higher courts. As opposed to a sole driver/owner who cannot afford such luxuries. By allowing only a Judicial Review the parties must first convince a judge that there is merit in their claim.

From: Nick Coles [REDACTED]
Sent: 04 September 2012 23:02
To: TPH

Subject: VAT on cash sales>

There should not be a VAT payment to HMRC on cash sales! as hackney licensee cannot charge over the meter amount.

There is no VAT in calculating the license issueing councils' fares!

After reclaiming VAT on expenses we are losing approximately 16% of our income.

This situation is not sustainable, why should taxi firms have to change the structure of doing business only to avoid losing 16% of our income!

If any reader of this article agrees, please respond to this e-mail address.
[REDACTED]

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From: [REDACTED]
Sent: 05 September 2012 00:37
To: TPH
Cc: a [REDACTED]
Subject: Objection to proposals to ban wedding cars that are not licenced fo Private Hire

Dear Sir / Madam,

Re: Taxi and Private Hire Services Project

Your reference number: LCCP203

I'm e-mailing you to regiser a number of objections to the proposed legislation which, as I understand it, seeks to remove the exemption for wedding and funeral cars from primary legislation.

My objections are as follows:

- 1. AGE LIMITATION:** All the wedding cars that our small wedding car business runs are more than 10 years old, as such these cars could not be registered with our local council for private hire on age grounds. As far as I can see, there is no provision to require local authorites to offer private hire licences to classic and vintage wedding cars that are over 10 years old. Hence, if the age limit provision is not changed, our business would be forced to close down, along with the bulk of the UK wedding car industry (with the probable exception of the stretched limousine sector which would, no doubt, expand).
- 2. SCALE OF BUSINESS:** Wedding cars are by their nature low mileage transport providers; our most popular car will do around 1,500 miles each year between annual MoTs. A typical taxi is likely to do over 100,000 miles per year, which is why a regular six monthly safety inspection regime is sensible for a taxi, but seems a less than sensible approach for a low mileage classic or vintage wedding car.
- 3. IMPACT ON A NUMBER OF CHARITABLE ORGANISATIONS:** I'm also a Director of a local motor museum which is registered as a UK charitable company (limited by guarantee). The bulk of the profit that our trading company makes is from the hiring of vintage cars for weddings. Should this propsed legislation come into effect, we would no longer be able to operate a wedding car business. Without the financial support from the wedding car business, at least one small museum run as a UK registered charity, for the benefit of the local community, would probably be closing down as a direct impact of this legislation.

Kind regards,
Peter Brownrigg

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Scarborough and District Taxi Association

Response to Law Commission Consultation

August 2012

SCARBOROUGH AND DISTRICT TAXI ASSOCIATION

National Taxi Association Member

We write on behalf of our members in the Scarborough and District Taxi Association.

To outline our status the association represents the majority of licensed taxi drivers within the Scarborough, Whitby and Filey areas and we are also an avid supporter of the National Taxi Association.

We have studied with great interest all the proposals and comments in the Law Commission response document and appreciate that there are many ancient laws and acts of parliament relating to the Taxi and Private Hire trade that need some updating.

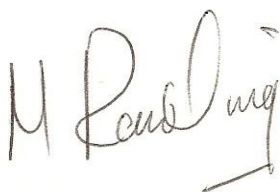
We do however consider the way forward should be of a more phased approach as rushing through an all encompassing package in one envelope as currently proposed would not guarantee that due diligence had been afforded to each individual and specific section of the trade. This would inevitably result in lack of clarity with confusion and errors in interpretation and may well lead to a raft of future amendments.

The Transport Minister Norman Baker has already indicated that "one size does not fit all" and aspects of this document are all too stringent with little regard to localization issues and the differing needs of the travelling public within individual areas.

Local council officials should always have an obligation to fully consult with the licensed Taxi and Private Hire Trade in their licensing area to ensure all aspects of the trade and local communities are correctly catered for.

In line with many licensing areas Scarborough Whitby and Filey being seaside resorts, are reliant to a large extent on the summer holiday trade and these **areas need to be afforded special dispensation within the government's proposals.**

This is where clarity of guidelines from government sources is essential.

A handwritten signature in black ink, appearing to read 'M Pauling', written in a cursive style.

SDTA Secretary

Response to Law Commission Proposals for Taxi Reform

Proposal No 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)

Our members fully agree with this proposal as it is written.

Proposal No 2

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

Our members fully agree with this proposal as it is written.

Proposal No 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)

Our members agree as long as existing compliance regulations still apply.

Proposal No 4

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

Our members feel there are serious advantages, for example public safety and accountability in restricting Taxi licensing to vehicles that require a driving licence.

Proposal No 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)

Our members fully agree with this proposal as it is written.

Proposal No 6

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

Our members fully agree to the removal of all references to stage coaches from the definition of Taxis.

Proposal No 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)

Our members fully agree the Secretary of State should give guidance to Traffic Commissioners but limousines and novelty vehicles should be kept out of Taxi regulation.

Proposal No 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)

Our members feel that anyone carrying passengers for hire and reward should be licensed and insured for public liability and under local authority control.

Proposal No 9

How, if at all should the regulation of Taxis and private Hire deal with?

- (a) Carpooling.
- (b) Members clubs. (Page 170)

(a) Our members believe carpooling is an acceptable traffic congestion solution and should be encouraged in our larger towns and cities.

(b) Our members feel if there is a pecuniary advantage in offering this service then it should be licensed.

Proposal No 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)

Our members accept this proposal that flexibility should be built into national standards and include local needs which are different in Yorkshire compared with central London.

Proposal No 11

Weddings and Funerals should no-longer be expressly excluded from Private Hire licensing through primary legislation. (Page 172)

Our members accept the argument in respect of wedding and funeral cars with the necessary safety and quality controls in place.

Proposal No 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)

Our members feel this was a justified response to tighten the law regarding vulnerable passengers who need protection from deviants who slip into the system unnoticed by slipshod vetting, this job needs to be done by responsible local councils, not by money strapped NHS trusts who will use the cheapest

available, and we have local experience of this practice. All contracts should have suitable licensed drivers as with Taxis and Private Hire.

Proposal No 13

Regulation of the ways Taxis and Private Hire vehicles can engage with the public should not be limited to “streets”. (Page 175)

Our members believe that Taxis should remain the only vehicles for instant hire anywhere within their licensing borough and this should include Railway Stations, Bus Stations, Airports, Seaports and Hospitals, anywhere the public have access Taxis should have the right to ply their trade and Private Hire should remain pre-booked only.

Proposal No 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)

Our members believe that Taxis which are an integral part of the transport system (1985 Transport Act) should be exempt from all tariffs and charges at all Airports, Railway Stations and Seaports, Taxis are the final link in the integrated transport system that we are allegedly building in this country, and without the Taxis waiting at these transport interchanges to finish the last leg of your journey or to start the beginning of your journey where would the public be, Taxis provide a 24 hr service at no cost to the public purse nor do we get any subsidies from local councils yet do we get any privileges for the service we give, simple answer no.

Licensed Taxis should be allowed to ply their trade anywhere the public have access within their respective licensing areas without any restrictions or penalties from private companies and this should be national regulation at all transport hubs or interchanges with only local councils that licence Taxis allowed to levy and control the trade.

Proposal No 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) Appropriate accommodation of the legitimate activities of Private hire vehicles. (Page 181)

Our members agree with your suggestion to put plying for hire on a statutory footing we believe there is a simple way to define plying, insurance companies define Taxis as public hire and Private hire cars as private hire, the difference is, Taxis are licensed and insured for Instant Hire anywhere in their licensing area, Private hire cars must be hired through a third party, the word Instant is quite a descriptive word requiring very little explanation and cannot be mistaken for any other form of hiring presently on the statute.

Proposal No 16

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

Our members agree plying for hire involves personal contact on the street not the use of technology.

Proposal No 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)

Our members believe plying for hire **is definable as** "a vehicle for Instant or immediate hire by a person wishing to hire a driver sitting in **a licensed Taxi**" (vehicle licensed under 1847 Town and Police Clauses Act) in any public place.

Proposal No 18

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

Our members cannot argue with your logic on this proposal they fully agree.

Proposal No 19

Pre-booked 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)

Our members fully agree with this proposal as it is written.

Proposal No 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)

Our members agree with your conclusion on this proposal as it is written.

Proposal No 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)

Our members agree with this proposal as it is written.

Proposal No 22

Reformed legislation should refer to "Taxis" and "Private Hire vehicles" respectively. References to "Hackney carriages" should be abandoned. (Page 185)

Our members fully agree with this proposal as set out in the 1985 Transport Act "reference to a Licensed Taxi refers to a vehicle licensed under the 1847 Town and Police Clauses Act" in Scarborough we already refer to Licensed Taxis and Licensed Private Hire on our vehicle plates and Licensed Drivers on our badges, we feel this continuity instils confidence in the licensing system to members of the general public.

Question No 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? (Page186)

Our members do not agree with this proposal, this would only blur the law instead of defining the law in the eyes of the general public and would undermine the basic law on the statute that no private hire operator may

mislead the public into thinking they are providing a Taxi service when in fact they are providing a pre-booked hire car service and as you have already stated you would prefer to keep the two tier system, to adopt this proposal would be welcomed by the private hire trade but would totally undermine the clear difference between the two defined trades and destroy the two tier system completely.

Proposal No 24

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

Our members fully agree with this proposal to have national safety requirements apply to the whole trade without exception.

Proposal No 25

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

Our members fully agree with this proposal as it is written.

Proposal No 26

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

Our members fully agree with this proposal as it is written.

Proposal No 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)

Our members find this proposal somewhat at odds with modern thinking, at every turn we as a trade are being encouraged to improve our knowledge and take NVQ courses on a subject most of us know backwards, then you come up

with this gem of an idea, I respectfully suggest you ask the present Minister of Transport about his embarrassing visit to Liverpool when the driver got lost and could not find the building the minister wished to visit (November 2010) the minister had to abandon the first cab and take another.

Our members think topographical knowledge is as important as being able to speak the Queens English and should be mandatory.

Proposal No 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)

Our members feel local requirement is important but believe national standards are just as important, such as the top sign issue, at present no private hire can use illuminated top signs under any circumstances there is ample case law on this issue, again a private hire must not mislead the public into thinking it is a Taxi available for instant hire, we feel local council input vital.

Proposal No 29

What practical obstacles might there be to setting common national safety standards for both Taxis and Private Hire vehicles? (Page 191)

Our members believe there is no serious obstacle to this proposal both trades use similar vehicles and in some cases exactly the same vehicles, the one difference between the two trades is mileage, and private hire cars on average travel half to twice the mileage of a Taxi working in the same area this is fairly similar in most regions, the reason being private hire cars usually do most of the longer routes, example Airports or ferry ports etc.

Proposal No 30

Should national conditions in respect of driver safety be different for Taxi services compared with Private Hire services? (Page 192)

Our members feel on this issue all drivers must be treated the same, attacks on drivers happen to all drivers, old drivers, young drivers, black or white it makes no difference we are all vulnerable even with screens fitted to Taxicabs as in London the attacks continue on a daily basis, and they are not all racial, the

most common excuse is money the fact that we take money from passengers who do not think we have earned it, because they think driving a Taxi or Private Hire car is not a proper job like theirs, we know this to be true because they tell us regularly, usually when in drink and usually late at night, after 25 years in the trade you get used to the verbal abuse, but drivers need the protection of the courts with severe mandatory sentences for unlawful attacks on innocent drivers, if the tariff for this crime started at 5 years minimum rising to 10 years for aggravated assault as a mandatory sentence then the attacks might suddenly disappear.

Proposal No 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)

Our members feel the Secretary of State should lay down guidelines for all aspects of Taxi regulation in consultation with the Trade.

Proposal No 32

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

Our members agree there should be a statutory consultation requirement.

Proposal No 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)

Our members feel the most knowledgeable people to ask would be the Taxi trade organisations who will be taking part in this consultation and speak for the whole trade.

Proposal No 34

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

Our members feel some local input is desirable on top of the national standard minimum.

Proposal No 35

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

Our members feel statutory limits to licensing authorities may be needed in some areas where council excess could be a problem.

Proposal No 36

Should licensing authorities retain the power to impose individual conditions on Taxi and Private Hire drivers or operators? (Page 194)

Our members feel the local authority should retain the power to impose individual conditions within national guidelines.

Proposal No 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)

Our members feel these arrangements should be left to local authorities to decide.

Proposal No 38

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

Our members do not agree with this proposal they prefer local decisions for local problems our Taxi fleet is already spread over three individual and separate towns covering a forty five mile coastline.

Proposal No 39

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

Our members do not think this is a viable or practicable idea for the smaller licensing authorities such as ours; we were de-zoned some thirty six years ago when our new larger District Council was created in 1974 under the 1972 Local Government Act, we have no wish to be re-zoned or de-zoned as and when the ideology or political influence changes.

Proposal No 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? (Page 197)

Our members do not approve of this proposal because it would become an enforcement nightmare to administer; this would be like creating work for our **over stretched licensing officers to do, it's a novel idea like pedicabs, sounds good on paper, dangerous on the streets.**

Proposal No 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)

Our members are appalled that you think this is a viable solution to the cross border issue, really there is no issue to reform, if P/h companies adhere to the 1976 Act and stop trying to rewrite the law to suit themselves there would be no conflict, they create the problems because they do not like the law the way it written, this proposal would open the flood gates for unlicensed vehicles to roam the country, no licensing authority would know who was working in their district or who was enforcing them, the shady operators would love this, example **Addison Lee, don't like the bus lane rule, so we'll ignore it**, that was until he found himself in front of a High Court Judge, then he found out the law in this country can be upheld, we are free as a people to do as we like, as long we stay within the law.

Proposal No 42

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

Our members find this proposal illogical there has to be a requirement to return to your licensing area, if not your giving the green light to more of the Berwick syndrome, there has to be a basic requirement that you work only in your licensed area, the law does not require change, if any licensed driver whilst out of his area is given a pickup from another licensed area via radio, dispatch system or even mobile phone from his licensed office, he has not broken any existing law, what he cannot do is continue to work in an area he is not licensed for indefinitely, the law does not prevent any driver returning to his own licensed area with a fare arranged by his office and given to him because he is already in that area, arguments put forward by the cross border lobby are ploys to bamboozle, they want to remove all borders in order to cherry pick the busiest times and places, they are not interested in providing a service to the public, they want to plunder everywhere they can without restriction.

Proposal No 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)

Our members fully agree with this proposal concerning Taxi fares being regulated by your local authority, something which is normal everywhere, with regard Private Hire fares, we ask the question why not allow local councils to set a maximum, and put a stop to the doubling of multi seater fares because the vehicle can do the job of two cars and charging higher fares for wheelchairs in comparison with equivalent passenger journeys , we understand some councils in the West Yorkshire area are looking at this issue with regard the Equality Act 2010, because they are appalled at this abuse of the freedom to set their own fares by some private Hire companies.

Proposal No 44

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

Our members would agree with this proposal but only to cover the dead mileage from office to pickup, where a driver has to travel further to the pickup point than he is actually going to travel with the customer in the vehicle, we feel in this circumstance a booking fee is justified. In our area we have a booking fee fixed with a maximum set by our Licensing Committee and displayed on our tariff card in all our vehicles, again market forces apply if we attach too high a booking fee to any fare the customer has the choice to use a different company,

But this addition to our tariff card gives us the flexibility to be competitive with our prices.

Proposal No 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)

Our members feel that proposal B in this question is the correct answer that the Secretary of State is the proper person to set out National Safety Conditions for the whole country.

Proposal No 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 members cannot agree with this assumption that only the vehicle is subject to the “fit and proper” tests, we believe owners, drivers and vehicles should be put to the test.

Proposal No 47

Should national 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)

Our members believe that national vehicle standards should be included within the Secretary of State’s general powers to set national safety conditions.

Proposal No 48

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

Our members fully agree with this proposal as it is written.

Proposal No 49

[Should operator licensing be extended to cover Taxi radio circuits, and if so on what basis. \(Page 208\)](#)

Our members do not believe the argument for extending operator licensing to Taxi circuits as you explain in your notes (Page 208) that this additional tier of legislation would interfere with normal Taxi office operations, such as railway station Taxis which are booked by national agencies who recruit Taxis on behalf of agency customers throughout Britain, in the safe knowledge that Taxis are highly regulated by their local councils, they have to be, they are in the public eye on the streets available for instant hire.

Proposal No 50

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

Our members fully agree with the explanations given in the notes (Page 209) we believe that the definition of operators should not be extended in order to include intermediaries.

Proposal No 51

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

Our members have no doubts on this subject we fully agree “fit and proper” should remain the accepted criteria in respect of operators.

Proposal No 52

[Operators should be expressly permitted to sub-contract services. \(Page 210\)](#)

Our members fully agree with this proposal as it is written.

Proposal No 53

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

Our members do not believe the arguments put forward for this proposal hold any credibility in the real world of your average Taxi driver going about his business, it has to be said there has not been a requirement for drivers to keep notes for the last 165 years, so why now, are Taxi drivers to become part of the **big brother conspiracy to log everybody's movements every minute of every day.**

Proposal No 54

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

Our members cannot agree with this proposal on principle, because we are one of the ninety odd licensing areas that retain a quantity limit and our council is quite happy their decision has been justified by successive surveys of the trade and the people of Scarborough, Filey and Whitby that prove we are one of the most efficient Taxi/Private Hire fleets in the whole country, in fact our last survey praised our excellent balance of vehicles both on the Taxi fleet and the Private Hire fleet, including our **mix of WAV's, saloons and people carriers**, the end result was the people of our three towns were well pleased with the service our trade provided. We believe that the real bench mark is public opinion and to our credit our council has never recorded a single complaint regarding the service provided by the trade in our towns.

Proposal No 55

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

Our members accept the Law Commission does not approve of quantity limits, and we have read all your arguments to back your theory, but we have seen the devastation delimiting has caused around the country in many towns and cities, this you dismiss out of hand and you believe change is for the better and the trade will be healthier for making the change, but sorry, try explaining why so many councils that have followed this ideology and taken away their limits, have now changed their minds and put one back because they could not cope with the

carnage that followed, as you have already explained in your long and wearisome document Taxis are a special case, they have to be contained within our towns and cities to ply the streets, that is their particular function to work the streets, the very same streets that are swamped with volumes of traffic they were never designed to cope with, and your answer is to flood our towns with unlimited vehicles because market forces is the only way to control the Taxi trade in your opinion, again we remind you for 165 years local councils have been successfully making such decisions for themselves, a job they have been elected to do by the very same people, you are concerned are being unfairly restricted in their choice of public transport available in their locality by quantity limits, but do they want unrestricted traffic jams and pollution, is that a reasonable and sensible option to increase congestion.

Proposal No 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)

Our members accept they are likely to lose the argument over quantity limits the pressure on the trade to change at all costs is overwhelming, and we can only try to limit the damage to our livelihoods using the only options available, this choice of staggered entry is not the solution, as there would be continuing conflict between Taxi owners and local councils. There could possibly be however, a **requirement for more WAV's in areas where an unmet demand** survey indicated a shortfall. Future guidelines on WAVs when published would be sure to correct another failing of the trade to provide sufficient wheelchair access in line with the Disability Discrimination Act 2005 and more recently the Equality Act 2010.

Proposal No 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)

Our members are not convinced this proposal is a workable idea, there is only one Hackney Licence under the 1847 Act and our members would prefer to keep it that way, but if your suggesting there should be concessions for WAV vehicles then try persuading the government to make WAV vehicles zero rated for tax and VAT, everything else provided for the disabled is zero VAT why should Taxi

drivers have to bare this burden when the WAV vehicles the government expects our members to provide are so dammed expensive, twice the cost of your average saloon car.

Proposal No 58

[Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? \(Page 217\)](#)

Our members do not agree with this proposal your thinking is way off base, saving a few pounds on your licence fee does not compensate for the thousands of pounds it costs to provide and maintain a WAV as opposed to a saloon car, even if the licence were free it still would not compensate for running a WAV and we are talking from bitter experience.

Proposal No 59

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

Yes we do, simple make all WAV's zero VAT rated, and you need do nothing else because many drivers would prefer to work in a purpose built Taxicab that's wheelchair accessible the only problem is the price you end up paying with the finance added on, you cannot do anything about the cost of finance but the government could if it really wants more WAV's on the street, guaranteed, tomorrow, take the VAT off. These measures plus a mixed fleet nationwide and awareness training could make a dramatic difference for all disabled passengers. As those in the trade know only too well purpose built cabs are not the answer to all passenger disabilities.

Proposal No 60

[We do not propose to introduce national quotas of wheelchair accessible vehicles. \(Page 218\)](#)

Our members feel this is a very sensible decision on your part and fully agree it is not a good idea to have quotas, we think practical incentives would have the biggest impact on changing drivers choices when buying new vehicles, remember Taxi drivers are known to be very canny when it comes to spending

money, they have to be they earn it the hard way. Make buying accessible vehicles easy and cost effective and market forces will take over, drivers will be queuing up to buy them, with no legal requirement from government or local council you get the desired result by incentive.

Proposal no 61

National standards for drivers of both Taxis and Private Hire vehicles should include recognised disability awareness training. (Page 219)

Our members find no fault with this proposal; it makes perfect sense to have a fully trained trade to a national standard.

Proposal No 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)

Our members find this an obvious suggestion, all our Taxis carry this information on our tariff cards now, and we assumed it was common practice nationally.

Proposal No 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)

Our members feel this should be covered in the national standards training program, this sort of discrimination cannot be removed by passing laws, because laws such as this are only as good as the local enforcement and you cannot enforce everything all the time, this can only be removed from the system by education, **it's the same for all forms of racism** and discrimination, training is the only answer that will work in the long term to change perception permanently.

Proposal No 64

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

Our members have no problem with this idea of licensing officers having the power to stop and investigate licensed vehicles, accompanied by a Police Officer, because most licensed drivers know their licensing officers on sight and officers the same, so this raises no serious problems in our borough.

Proposal No 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”. \(Page 223\)](#)

Our members feel that there is a serious lack of enforcement outside of office hours and this is a major contributory factor to unlawful activities, when the Metropolitan Police clamped down on illegal mini cabs and touting after the introduction of Private Hire Licenses in London only in the last two years there was a major improvement, which goes to prove enforcement can work if there is the will to do it, and the money.

Proposal No 66

[Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of Taxi and Private hire licensing rules? \(Page 223\)](#)

Our members see the advantages of this power in the hands of the Police but we doubt local licensing officers have the required legal training to carry out this form of enforcement and to actually physically take a vehicle from someone without a uniformed officer present could lead to a serious breach of the peace and possible injury to the licensing officer, this of course requires the will and money to pay officers to come onto the streets and enforce the rules.

Proposal No 67

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

Our members feel that in the light of a recent High Court Case where the Judge ruled that points systems were unlawful because they undermined the local **Licensing Committee’s opportunity to use their discretion and judge each case** on its merits, makes fixed penalty schemes just as dubious in common law, and we would not support this proposal.

Proposal No 68

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

Our members fully support this proposal as it is written.

Proposal No 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)

Our members believe that the right to prosecute offenders from other licensing boroughs should be allowed with a mandatory requirement to inform the neighbouring council of the offence and the action they are prepared to take with hopefully both councils cooperating in the final prosecution.

Proposal No 70

The right of 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 relevant licence. (Page 230)

Our members agree with the spirit of this proposal we fully agree with rigorous consultation on national standards and fully agree with the requirement for consultation on local safety standards with all stakeholders in each licensing borough.

Proposal No 71

The first stage of 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)

Our members fully agree that the first stage in any appeal should be through the **local council and its Licensing Committee, it's our experience that local** councillors when given the chance to hear all arguments can usually come to a

Common sense decision despite bias advice given to them in some cases by officers in our experience.

Proposal No 72

[Appeals should continue to be heard in the Magistrates' Court. \(Page 232\)](#)

Our members fully agree with this proposal that all appeals should continue to be heard in the **magistrates' court**.

Proposal No 73

[Should there be an onward right of appeal to the Crown Court. \(Page 233\)](#)

Our members feel there should remain an onward right to of appeal to the Crown Court.

Law Commission – Consultation paper – Taxi and Private Hire Licensing Legislation Reform.

Epsom & Ewell Borough Council Response

Provisional Proposals

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.

- A. This would be welcomed by the Authority, and continues to provide reassurance to the public. There would be no impact change to the Council as already have a clear distinction between taxis and private hire vehicles.**

CHAPTER 14 – REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform.

- A. London should be included in the reforms legislation should include the whole 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.

- A. This is a major change meaning that new vehicles could be licensed, wedding & funeral cars etc. The council would have to consider changes to policies, ie what specifications of vehicles we would accept. There could be more applications to the council and extra administration and officer time costs. The Authority would consider expanding the licensing regime could prove to be an unnecessary burden to existing businesses.**

Question 4.

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

- A. This would be beneficial as it would be clear which vehicles we can licence and would be clearer for members of 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.

- A. Drivers of PSV Vehicles don't licence with the Local Authority so should be excluded from the definition of taxi and private hire vehicles, this would clarify the current grey area with Public Service 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)

- A. The Authority agrees.**

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.

- A. The Authority agrees that guidance should be issued but guidance isn't always right and should only be used as a guide, the guidance would be for the traffic commissioner to use as they see fit.**

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.

- A. The Authority agrees with excluding the requirement to licence genuine volunteers, as they are providing a service to the public.**

Question 9

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

(a) carpooling; - A. **More clarity on when carpooling is considered exempt.**

(b) members clubs? A. **If they are confirmed clubs that help the community ie helping the vulnerable and disabled then should be exempted from holding a licence as they are helping the community.**

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.

- A. **Would want to see that councils can set their own standards as the national standards might not work for this area.**

Provisional proposal 11

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

- A. **As stated before there would be an impact for the council to licence more vehicles with the same amount of staff, and would require more checking of the internet for possible unlicensed vehicles and more enforcement, but agree these vehicles should be licenced.**

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?

- A. **The contract exemption was a grey area and it would need to be made very clear what service is classed as exempt.**

Provisional proposal 13

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

- A. **This would create extra work for the council as Private Land would be under the same legislation as streets. We could prosecute for illegal plying for hire on Private Land. More enforcement work would have to be undertaken to check vehicles on private land. There would need to be clear guidance on 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?

- A. This is a question that doesn't affect Epsom & Ewell as we don't have an airport located in the area.**

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*

- A. Should have a list of factors indication plying for hire**

Provisional proposal 16

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

- A. The current legislation needs to be updated to incorporate new technology, this could be text apps etc.**

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"?

- A. .The Authority is unaware of the Scottish System and approach to this so would be unable to comment.**

Provisional proposal 18

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

- A. The Authority agrees**

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.

- A. **The Authority agrees that there needs to be a difference between Taxis and 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.

- A. **The Authority agrees that this should be allowed as there are times when spouses need to use the taxi or private hire vehicle for social, domestic and pleasure. Would need clear proof that the vehicle is not being used for business purposes, we currently issue a badge to drivers who are using for social, domestic and leisure to wear whilst they are driving to wear their badge so if pulled over they can prove they hold a licence.**

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.

- A. **As previously stated guidance should only be used as a guide and it would be up to the local authority to interpret how it sees fit.**

Provisional proposal 22

Reformed legislation should refer to "taxis" and "private hire vehicles" respectively. References to "hackney carriages" should be abandoned.

- A. **This may cause confusion as members of the public refer to Private Hire Vehicles as Taxis.**

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?

- A. **This is a matter that frustrates Hackney Carriage Drivers in our area, there are a few Private Hire Operators who have used the word Taxi on advertising but don't have access to a Hackney Carriage Vehicle and have been advised to remove the wording. The problem is that members of the public use the word Taxi and believe it to be a Private Hire Vehicle. The Authority would not support such a proposal.**

CHAPTER 15 – A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements.

- A. This would be a good measure to have national safety requirements, but it would be good to have an option to set different standards according to the local area need.**

Provisional proposal 25

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

- A. The Authority agrees.**

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards

- A. Should be down to individual Authority to set relevant 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.

- A. This as the Authority understands it could mean the removal of the knowledge test for Private Hire Drivers, think this would be a wrong move to remove this requirement, we are required to confirm if an applicant is considered fit and proper The Authority believes this includes not only a clear CRB but a good local knowledge and being able to converse with the passengers. It would appear that Hackney Drivers would not need a Knowledge Test which we believe is needed as well. If we are talking about safety this definitely includes the need for a knowledge test for private hire drivers.**

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?

- A. Would need clear timescales regarding local standard setting as may need to do policy reviews and consultation.**

Question 29

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

- A. *What works in one area may not work in another.***

Question 30

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

- A. *Yes they should be different as Private Hire Vehicles are very different from Hackney Carriage Vehicles. We licence purpose built Hackney Carriage Vehicles that have a partition, our Private Hire Vehicles do not so conditions would have to be different.***

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.

- A. *Would need full details of what these conditions would be.***

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.

- A. *Any big change like this should be subject to statutory consultation requirement. We would require notice of what the proposed changes are so these can be taken to the relevant committees to decide of appropriate action to be taken.***

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. *The Authority agrees that a technical advisory panel would be good but it would depend on who is on the panel and what involvement councils can have on the decision making process.***

Provisional proposal 34

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

- A. Yes The Authority agrees we should retain the power to set standards locally as we have local set standards that work for the area, and having national standards might not work for the area.**

Question 35

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

- A. Should be up to the Local Authority to decide on standards.**

Question 36

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

- A. Yes we should, this is a very important tool and has been used on a variety of Operators Licences to help control the licence.**

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?

- A. Best left to Local Arrangements.**

Provisional proposal 38

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

- A. This appears to suggest merging services, The Authority agrees with this as an officer In one area has a local knowledge and what works in one area doesn't necessarily work in another, also people different ways of interpreting the legislation.**

Provisional proposal 39

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

A. The Authority agrees

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?

- A. This would create extra work as we would be required to produce different plates and would be required to undergo more enforcement during the day, would need a clear idea of what the penalties are and what sort of powers we may have against vehicles that are caught not using at certain 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

- A. This opens up a complete mindfield, enforcement would be near on impossible as any vehicles from different areas could be used and it would be hard to keep tracks on vehicles.**

Provisional proposal 42

We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs.

- A. The Authority doesnt have a return to base policy for Operators within the area.**

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.

- A. The Authrorty agrees that Licensing Authorities should retain the ability to regulate taxi fares,. The Authorities view is that the setting of fares for PHV should only be a matter for the company, otherwise we could be upsetting the completion laws.**

Question 44

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

- A. No** *The Authority doesn't think they should the cost is a premium for Hackney Carriage Vehicles and don't see why there should be a higher cost for 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?

- A. 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)

- A. Everyone should be subject to the fit and proper test.**

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?

- A. Set out in primary legislation.**

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles.

- A. Yes** *The Authority agrees*

Question 49

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

- A. No as taxis are self employed and are required to keep records of their own bookings.**

Provisional proposal 50

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

- A. Would need clarification on this point, there are many intermediaries that appear on websites and it is difficult to clarify who runs the service.**

Question 51

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

- A. Yes it should as if the Operator Is not considered fit and proper they shouldn't be holding a licence.**

Provisional proposal 52

Operators should be expressly permitted to sub-contract services.

- A. Currently London allow Sub-contracting and we have had Operators wanting to use vehicles licensed in different areas but have been unable to do so. Some of our Operators that offer executive vehicles have stated that because there is only a few licensed exec vehicles it would be beneficial to be able to sub contract to different areas. Would have concerns over Operators Sub-Contracting to different areas as it makes Enforcement duties far more difficult.**

Question 53

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

- A. Yes The Authority believes that records should be kept.**

CHAPTER 17 – REFORMING QUANTITY CONTROLS

Provisional proposal 54

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

Question 55

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

- A. The Authority doesn't restrict numbers currently but are contemplating an age limit on Hackney Carriage Vehicles. There could be an influx of vehicles being licensed but this can be controlled with a strong policy.**

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?

- A. This may help with possible numbers as we could have a flood of vehicles to be licenced, What would the staggered entry involve to regulate numbers ?**

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.*

- A. The Equality Act 2010 means the Local Authority is required to keep a list of Wheelchair Accessible Vehicles, also under the act the driver of the vehicle has certain duties under this act. The new legislation should link together with the Equality Act as this is already in place. All of our Hackney Carriage Vehicle are wheelchair accessible so have a duty to carry disabled passengers, so when ranks are considered there is an adequate provision for wheelchair accessible vehicles.**

The Authority doesn't think there is a need for a separate licence category as this is already covered under the Equality Act legislation

Question 58

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

- A. ***As a Licensing Authority we can only charge a fee to cover the cost of administration and licence so it would depend on how much time is spent to the licence the vehicle compared to a standard Private Hire Vehicle. We do have one operator who has access to Hackney Carriage Vehicles and all of our Hackney Carriage fleet is 100% wheelchair accessible.***

Question 59

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

- A. ***We at Epsom & Ewell have a 100% WAV Hackney Fleet so there would be choice for disabled passengers to either flag down the vehicle or pre book with the Hackney Carriage Driver. We also keep a register of WAV Private Hire Vehicles on the council website for customers to use.***

Maybe to have some sort of incentive for Operators to buy Wheelchair Accessible Vehicles, either money off cost of vehicle or possible reduction in licence fee.

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles.

- A. ***All of Epsom & Ewell Hackney Carriage Vehicles fleet are wheelchair accessible and we have a list of Private Hire accessible vehicles.***

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training.

- A. ***The Authority thinks this would be useful for drivers to have recognised disability awareness training. The Equality Act 2010 makes it necessary for drivers of wheelchair accessible vehicles to help disabled people making their journey as comfortable as possible so any recognised training would be seen beneficial, would this training be a cost to 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.

- A. This is something we already have displayed in each vehicle that if the passenger has any comments or concerns about the driver to contact the local authority. The Authority believes this is necessary information that is needed in each licensed vehicle.**

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?

- A. All of our Hackney Carriage vehicles are wheelchair accessible and The Authority hasnt been made aware of disabled passengers having issues being ignored. A condition of an obligation to stop is good, but how would we prove that the driver didn't stop as it would be one word against another.**

CHAPTER 19 – REFORMING ENFORCEMENT

Question 64

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

- A. The Authority agrees that an authorised officer should have the same power of a Police Officer to stop licensed vehicles. Would need clear legislation of exact powers Authorised Officer could have.**

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".

- A. We undertake enforcement activities whereby volunteers attempt to get in unlicensed vehicles. We also undertake work with Surrey Police. Regular enforcement seems to be the best tool to address touting.**

Question 66

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

- A. The Authority could not see this as a practical measure as we don't have an area for impounded vehicles, would we have to put vehicle in local impound yards ?, what would happen to the vehicle if it is not claimed before a certain period ?, we have the tool of suspending a vehicle if there are any breaches and see this as sufficient.**

Question 67

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

- A. We don't currently have fixed penalty schemes, What offences would the fixed penalties be for ?, would the income from the fixed penalties be used for the Local Authority ?.**

Provisional proposal 68

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

- A. There will need to be clear legislation as to what powers we have and how these can be enforced. Every Authority would have to be working under the same 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?

- A. The Authority agrees that the power to suspend a vehicle not licenced by us would be good. There would need to be clear legislation of what we can do ie remove the plate and what offences. This may be useful in Epsom & Ewell as we have the Derby Horse meeting in June where there are many out of area vehicles that are potentially plying for hire. The revocation should be down to the individual Local Authority to decide.**

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.

- A. The appeal is currently open to any 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.

A. No the decision of the Local Authority would have been made on evidence to suggest the person was not fit and proper to hold a licence

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court.

A. As Officers we have delegated authority to suspend or revoke a licence and this is based on the fit and proper test. If an applicant wants to appeal then it is their decision and for them to prove how they believe they are fit and proper to hold a licence.

Question 73

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

A. Generally when a case has been heard at Magistrates the decision of the Local Authority is usually upheld, The Authority believes that having the appeal process ending at the Magistrates Court works.

From: Hodgson, Phil
Sent: 05 September 2012 10:10
To: TPH
Subject: FW: Wedding cars - proposals for licensing operators, drivers and vehicles.
Not acknowledged

Phil Hodgson | Head of External Relations
020 3334 0230

Visit the Law Commission website www.lawcom.gov.uk-----Original Message-----

From: [REDACTED]
Sent: 04 September 2012 21:04
To: Hodgson, Phil
Subject: Wedding cars - proposals for licensing operators, drivers and vehicles.

Dear Sir

I hope I am able to be considered in the responses for the consultation regarding the reform of taxi and Private Hire Vehicle legislation.

This week's Classic Car Weekly gave the date for replies as 14th September 2012.

I object to the proposal to licence wedding cars in the same way that taxis and private hire vehicles are. Our classic vehicle is nearly 40 years old, looked after and is only used for a few times a year on low mileage. A wedding ceremony is a one off special occasion usually involving local trips with local customers on a quiet Saturday afternoon away from the crowds; it is a carefully maintained car with a special insurance. It is not used to ply for hire at a moments notice or pre-booked and used to transport groups of people to airports, nightclubs, stag dos and other venues. I see it as a service I provide in my community and I believe we have made many people happy over the years. Hiring a classic or vintage wedding car contributes greatly to a social occasion which must not be lost to future generations.

I thought the Government were looking at ways to reduce the burden on small business; the potential costs would involve me as a self employed mother of four giving up my small wedding car business which helps to supplement my family income (albeit after costs of running the wedding car) and could mean me turning to benefits instead.

By all means keep a register of owners of classic and vintage cars used for wedding hire but please don't go down the route of licensing them and creating additional expense that most people in today's economy just cannot afford.

Thank you

Wendy Hampton
sole proprietor
FINESSE WEDDING CARS



Reforming the law of taxi and private hire services

Response by Northumberland County Council

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 current system of hackney carriages and private hire vehicles is overly complicated and not understood by the general public. They generally do not know nor care about the distinction

between the two types of vehicles and are generally more concerned about getting to their destination.

Many of the issues currently encountered by local authority enforcement officers relate to private hire vehicles illegally plying for hire.

A one-tier system that removes the distinction between taxis and PHVs would simplify the entire licensing structure and resolve many of the current issues.

We suggest a regime where there was a requirement of an operator licence, vehicle licence and

driver licence and within which vehicles could which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles .

A single tier system, with national standards for vehicles and drivers would be simpler and more cost effective. Exemptions could as now be permitted for novelty & executive hire. We do not believe that retaining the existing two tier system would provide greater public safety than a single tier.

Currently many private hire operators use hackney carriage vehicles on a large scale to complete pre-booked work.

REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

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

We do not have a view other than to acknowledge that this may have a disproportionate effect on 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)

We agree with the proviso of exemptions for novelty vehicles (from standard conditions etc).

Question 4

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

Public safety issues arise whether the person is transported via a motor vehicle or by a horse drawn carriage.

The issues involved may be slightly different but the legislation should recognise the complexities and accordingly make provisions. It is suggested that separate provisions are made for licences which do not require a driving 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)

There would appear to currently be a gap in the legislation relating to the licensing of limousines and which licensing regime they should fit within. We suggest as long as this issue is resolved then we have no problems with the above 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)

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)

There should be a clear definition of what a “volunteer driver” is and also what “in the course of a business” means. There are volunteer drivers who achieve 500-1000+ miles per week driving to hospitals and this could be viewed as a business.

The concern is that such arrangements are usually made for transporting vulnerable people. We would propose that either they are subject to the licensing requirements but are exempt from licence fees as long as they do not complete any additional work using the licences or that the arranging body is required to complete the same level of checks on the drivers and vehicles as would be required by the licensing authority. Should the second option be taken then it should be considered whether the licensing authority would need to approve the arrangements of the organising body.

There is concern that this proposal could provide loopholes for nightclubs etc to provide virtual private hire services. If exemptions are given the drivers & vehicles should be subject to rigorous vetting. We would propose exemptions either locally or through the Secretary of State for roles such as childminders who are already subject to vigorous 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)

We agree that carpooling should be exempt but would suggest that a robust definition is needed.

We believe that members clubs should be subject to licensing requirements.

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 believe that there should be limited exemptions within the system. The aim of the legislation is the protection of the public and exemptions from the system should be carefully considered.

Provisional proposal 11

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

We believe all vehicles used that fit within the definition should be subject to the licensing

regime. Exemptions could be made for display of plate etc. We would suggest that clear definitions are provided to avoid future confusion.

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)

We strongly disagree with this suggestion. The purpose of the licensing regime is to protect the public and frequently such contracts are to carry vulnerable passengers. The contract exemption was removed to ensure that vulnerable children and adults were not being transported by drivers without proper vetting (enhanced CRB etc) and in vehicles that had not been properly checked for safety. It would be a backward step to return to the old situation.

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 this should be extended to "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? (Page 177)

We do not believe that there is any reason why airports should be treated differently to places such as railway 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)**

If a single tier system was agreed there would be no need for such definitions. If a 2 tier system is however retained then it would be useful to have such a definition.

Provisional proposal 16

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

This would not be of concern if a single tier system was adopted.

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 would not be of concern if a single tier system was adopted. As taxis can be pre-booked the concept of "a public place" may bring confusion.

Provisional proposal 18

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

We agree with this proposal.

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)

A single tier system would remove the need to differentiate.

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)

(Page 184)

We totally disagree with this proposal. The only current constraint on use of a family vehicle is that the driver holds the relevant licence and so there would not be any hardship to the family.

Amending the current requirement would create enormous issues with enforcement and could undermine the whole system and result in the number of unlicensed drivers increasing.

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)

(Page 185)

Although we would prefer the legislation to be sufficiently clear so as not to need statutory guidance we accept that there may be justification for statutory guidance.

Provisional proposal 22

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

(Page 185)

A single tier system would remove the need for such differentiation. The Public refer to both HCs & PHVs as “taxis”. We support a single tier system with the universal use of the word “taxi”.

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)

A single tier system would resolve this issued, however if the current 2 tier system is to be retained the use of “taxi” or “cab” should **not** be permitted as it causes greater confusion to the public.

A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

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

(Page 188)

We agree that all vehicles and drivers should be subject to mandatory standards whether in a single or 2 tier regime. We would advocate a single tier system with taxis required to have roof and other specified signage. We would seek a full consultation on what the proposed national standards are to be.

Provisional proposal 25

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

We believe that national standards should be sufficient as to only require local deviations relating to plates and licensing authority identification.

Provisional proposal 26

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

We believe that national standards should apply to all vehicles. A one tier system would remove the requirement to have different 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)

We disagree with this proposal and believe that additional standards should be adopted such as the driver's ability to communicate, particularly when English is not their first language

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)

This would depend on what the national standards were. If the 2 tier system is to be retained we would encourage the ability of licensing authorities to require signage specific to private hire needing to be pre-booked & display of local operators etc.

Question 29

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

We support national standards for all vehicles.

Transitional arrangement will need to be considered and whether grandfather rights will be given to existing licence holders who no longer fit the criteria.

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)

We believe the powers of the Secretary of State should be extended to include other issues such as passenger comfort, luggage space 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)

Yes we agree that full consultation on the standards is essential.

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 believe there should be full consultation with all local authorities which could then be fed into a technical advisory panel.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis

provided above the minimum national standards. (Page 193)

We believe that if the national standards set are strong enough there would be no need for additional local standards other than those relating to signage and roof signs.

Question 35

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

Please see answer to proposal 34.

Question 36

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

Licensing Authorities currently do not have the power to impose conditions on hackney carriage drivers nor do they have the power to require an operator licence for operation solely of hackney carriages. We would support a one tier system with national requirements. These should include CRBs, criminal offences, medicals, disability awareness, legislation tests etc. It would be hoped that these matters would be dealt with sufficiently enough than licensing authorities would not be required to impose further 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)

We believe that this is best 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)

We believe that by setting robust national standards this would not be required.

Provisional proposal 39

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

We believe that licensing authorities should have the option to create, or remove, 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)

We do not agree with this proposal.

This proposal would create large enforcement issues for local authorities which would have little impact on public safety.

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 proposal to allow operators to use vehicles and drivers licensed by other authorities could lead to vehicles and drivers being licensed in one area and totally operating in another. This could lead to enforcement issues and problems in identifying drivers/vehicles.

We propose a single tier system where the requirement for all three licences be issued by the same authority be retained.

Although we can see the benefit to the driver and operator unless there was a central database of vehicles and drivers and consistent national standards we cannot see how the system would be able to deal with enforcement issues.

Provisional proposal 42

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

We agree with this 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. (Page 200)

We agree that maximum fares for un-booked work should be set. We support a single tier system with negotiated fares for pre-booked work subject to the fare being no greater than the metered fare.

Question 44

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

See our response to Proposal 43.

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 it should be included in primary legislation with regulations to cover issues such as relevant convictions, Group II medical standards 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)

We believe the “fit and proper” test should be used for licensed proprietors as well as drivers.

Given the problem with the transportation of drugs in licensed vehicles we would consider it may not be appropriate to license a proprietor with previous convictions for supplying drugs.

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)

Primary legislation with regulations.

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. (Page 20)

We believe a one tier system which requires an operator licence for those complete pre-booked work is the best solution.

Where a two tier system is adopted the operator requirement should be extended to cover hackney carriages.

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)

If dealing direct with the driver it is consider that it would be necessary.

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)

We agree with this proposal subject to the proviso that the sub contracting is to another licensed private hire operator and that there is a proper audit trail of records.

Question 53

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

Yes.

This would assist when investigating complaints. . We believe under a one tier system this would be covered and would not require separate rules for private hire and hackney. It would appear to be nonsensical that there should be two separate requirements for the same type of booking depending on the type of vehicle used. Should a record be required to be kept in the interest of public safety for one type of vehicle the same argument should follow for the other type of vehicles.

REFORMING QUANTITY CONTROLS

Provisional proposal 54

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

We believe that market forces should determine numbers. However if this was the case it should be linked to the Local Transport Plan.

Question 55

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

There may be issues with rank space.

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)

(Page 215)

We feel this may overcomplicate the system and may have limited benefit to the public as a whole.

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.

Question 58

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

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)

Provisional proposal 60

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

We agree with this proposal.

Provisional proposal 61

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

We support this proposal but would request further information relating to who will provide the training, what cost will there be & who will bear the cost.

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)

There is already a requirement on hackney carriage drivers and this should continue. It should apply to all passengers as not all disabilities are immediately recognisable.

REFORMING ENFORCEMENT

Question 64

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

We do not support 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)

Currently one of the greatest issues is private hire vehicles illegally plying for hire. Under a one tier system this would no longer be an issue.

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 do not support this proposal.

Question 67

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

We would support the use of fixed penalties for specified offences (e.g. failure to wear badge etc) subject to specified officer training.

We would not support the use of fixed penalties for more serious offences such as illegal plying for hire.

Guidance should be issued on the use of fixed penalty schemes.

Provisional proposal 68

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

We support this proposal within specified parameters.

Guidance should be issued on this matter.

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 support this proposal limited only to vehicle suspension. This would enable officers to suspend unsafe vehicles.

Revocation of vehicles and driver issues should be dealt with the issuing authority.

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)

We agree with this proposal

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 believe this would be costly and require a further structure of Committee. National standards should prevent inconsistencies.

Provisional proposal 72

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

We agree that all matters should be referred to the Magistrates Courts.

Question 73

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

This is currently the situation and is often used to extend the period in which drivers can continue to work pending the outcome of both hearings which can take many months. We believe that the right to continue to work should be removed if the Council decision is upheld at the Magistrates Court.



The response to the Law Commission's Consultation on REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES from the CITY OF LINCOLN COUNCIL.

Legend

KB – Kevin Barron – Licensing Manager
SK – Samantha Kieran – Licensing Officer
TC – Thomas Charlesworth – Licensing Officer
AL – Alison Lewis – Equality and Diversity Officer
LC – Licensing Committee.

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)*

(KB) I agree, I am not sure that any single system would be able to cope with all styles of operation. The hackney carriages have the scope to operate within the district either plying for hire and rank work as well as pre-booked work. That system works and has done for over 100 years. They can charge the metered fare or negotiate a fare and the customer can either accept or refuse that fare. The meter ensures that the customer (at least the vigilant ones) is treated fairly.

Private hire, likewise works for what it was intended for. It is recognised that technology is catching up that fast and the definition of pre-booked almost includes instant booking. However, that said I am sure that can be built into the system to retain the two tier system.

(TC) However we must maintain a visual distinction between taxis and phv's like we currently have.

REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

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

(KB) No comment.

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)

(KB) The taxi, capable of being hailed and available for instant hire, should be constructed/adapted to carry all passengers, including not only wheelchair users but passengers with other disabilities. Otherwise those with special needs will be forced to use the pre-booked trade.

(SK) In regards to private hire vehicles it may be advantageous to look at smaller vehicles (e.g. smart cars) that can undertake bookings for people travelling alone. Many phv bookings are to transport one person.

Question 4

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

(KB) Accepting that the licensing regime is to promote public safety; how is a licensing authority able to ensure safety of vehicles other than motor vehicles which are covered by various Road Traffic Acts and Construction and Use Regulations?

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)

(KB) 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)

(KB) Agree

(SK) Agree provided legislation ensures taxis must be fitted with meters and they cannot charge above the metered fare.

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)*

(KB) No comment.

(TC) Agree although what consultation will be done to ensure safety of these novelty vehicles. It is a widely held belief that stretched-limousines are not safe full stop; regardless of consistent conditions if vehicles are not safe they should not be licensed.

(LC) 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)*

(KB) I'm not sure I agree completely with this. The legislation would then draw a line between the two which no doubt is and will be exploited. Genuine volunteers who make a living from “expenses” are still driving the public about, albeit, the passenger may not be the fare payer. Surely, he too should be subject to driver and vehicle inspection and fitness. I acknowledge the fact that these people do provide a vital service but the Authorities e.g. NH Trusts etc. do take advantage of loophole. Would it be better to explore some scheme where the volunteer sector is regulated but at a reduced cost?

(TC) Agree with the above although nature of the beast is that loop-holes will be exploited, I would assume that there are many unlicensed licensable activities that are being carried out under the present legislation such as hotels using drivers to collect guests from train stations etc. I for one would welcome clarification in what is a grey area.

DfT Guidelines have been useful.

Question 9

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

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

(KB) The Govt. has to decide, is it going to open up the market and reduce red tape and risk abuse or is it going to take the view that its function is to protect public safety, even at the expense of freedom?

Carpooling can be a source of income and can be done professionally.

If the Govt. is content to allow such schemes, it should not then be a function of the Local Authority to investigate abuse, but the Police, who have better and more powers.

Likewise members' clubs can and no doubt are, businesses. Local Authorities cannot investigate such abuses.

A scheme within the licensing regime should be considered.

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)

(KB) I am not in favour of national standards, so this question has no response.

(SK) If there are to be national standards then only minimum standards with scope for local authorities to add extra standards as required.

Provisional proposal 11

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

(KB) 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)

(KB) See 10 but the contract exemption should not be re-introduced.

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)

(KB) 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)

(KB) No. The airport is making money from the concession and should be made to provide a shuttle service for non-concession holders otherwise they hold a monopoly in effect.

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)

(KB) Agree.

Provisional proposal 16

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

(KB) 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)

(KB) No I cannot see how it works and introduces uncertainty. To explain, currently a hackney carriage can be hailed or approached on the rank. This can result in an immediate hiring. A private hire can be approached but cannot accept a hiring but can suggest to the potential hirer to contact his operator and once the operator has accepted the hiring, that journey can commence there and then, There is case law about the use of technology to actually make the booking. The records kept by the operator will show any misuse of the system. On the spot-hiring may become the norm but the hirer knows exactly what they are doing, who they are contracting to. The same option is open to taxis to use.

Provisional proposal 18

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

(KB) I agree. The concept of instant hire does have its privileges and its responsibilities, compellability is one such responsibility.

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)

(KB) 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)

*(KB) Disagree. The vehicle could be used then for non-operator approved hiring and control of the system would be lost.
It would introduce an uncertainty that is not currently there.*

(SK) This could also encourage non licence holders to undertake work and therefore risks of people who have not been vetted working as phv drivers or taxi drivers.

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)

(KB) With the proviso that if the guidance can be departed from if there are good reasons; as is the Case with the 2003 and the 2005 Acts.

Provisional proposal 22

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

(Page 185)

(KB) Or use the generic term of taxis for all and retain hackney carriage. Or even Public Hire and Private Hire taxis. Or Instant Hire and Pre-Booked Hire taxi.

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)*

(KB) Yes. The public know what to expect.

A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

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

(KB) A cautious yes. The standard should take into account that many vehicles are in use 24 hours a day and 365 days per week. Hence mileage with the associated stresses placed on the mechanical components represents a lifetime use of the vehicle used up in a year or two. Also, a normal car is used carefully as it is owned by the driver, that is not always the case with these vehicles and they do not get the care or attention the family car receives.

Manufacturers service schedules should be complied with, frequent mechanical inspections, such as two or three MOTs per year should be the minimum.

Likewise, assuming the driver is to be classed in the standard, they are working uncontrolled hours whereas PSV and HGV are controlled. Many drivers have driving as a second job. So any standards has to be over and above standard driving. An example here is that we use the Road Safety Partnership Driver Improvement Scheme which has been specially adapted to concentrate on h/c & p/h drivers. This is a one day course with supervised and assessed driving conducted by an advanced driving instructor. We abandoned the DSA test as it only repeated the standard driving test and there was no meaningful feedback to the driver. The course is only marginally more expensive than the DSA course and actually proved popular with the drivers, which is more than can be said for the DSA test.

(LC) Taxi/PH proprietors should be subject to a fit and proper test. If owners are persistently lax in the service and maintenance of their vehicle fleet then they should be prevented from licensing vehicles.

Provisional proposal 25

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

(KB) Agree the local authority should have the ability to increase the standard for its own purposes. An additional benefit being, that legislation is slow to respond to changing needs, whereas standards can be altered quickly by local authority changing local standards.

Provisional proposal 26

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

(KB) Disagree, see previous 2 answers.

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)

(KB) Strongly disagree. Data heads in the vehicles are programmed to put journeys on offer to drivers and they either accept or bid for them. Sometimes these are only put on a few minutes before the pick-up time and then the journey destination is not always specific or the hirer needs a variation. Drivers attending the pick-ups are given addresses and expected to know where they are going. This was a major problem to this licensing team until we introduced a knowledge test. I would agree that having topographical knowledge is a customer care issue and maybe the operator's concern, but the licensing authority is endorsing that these drivers are fit and proper. Knowing the locality is surely an aspect of overall fitness. Having a driver sat telephoning his operator for directions or having to input a post code (assuming the hirer knows it) into a sat-nav is unacceptable. What's more, drivers should concentrate on their driving and not follow directions either verbal or through a sat-nav which is distracting, particularly in busy town centres.

(LC) Consideration should be given to fitting tachographs to vehicles to prevent drivers drivers working excessive hours.

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)

(KB) National Standards for private hire vehicles is acceptable provided the licensing authority has discretion to introduce additional standards to meet local needs and demands as explained earlier.

Question 29

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

(KB) None if confined to the vehicles with licensing authority discretion to improve on them if necessary to meet local needs/demands.

Question 30

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

(KB) It may have to be. In our district attacks on drivers is very rare and not sufficient to cause the trade concern. They are permitted safety features at their own discretion subject to there being no Type Approval issues. There may be safety issues if the private hire trade started home-made measures which have an impact on passenger safety. The taxis are all purpose built and safety measures do not compromise type approval.

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)

(KB) I am not sure what is meant here. If national standards are intended, they should be limited to vehicle and driver minimum standards with guidance issued to permit licensing authorities to set higher standards if appropriate. A parallel can be drawn with the Licensing Act 2003.

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)

(KB) 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)

(KB) Technical and practical advice would be required.

Provisional proposal 34

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

(KB) Agree.

Question 35

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

(KB) No. If licensing is still considered a local function, then discretion locally should be permitted, even encouraged, to meet the needs and demands of the district. It should be borne in mind that any discretion exercised is subject to consultation and challenge.

Question 36

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

(KB) See 35 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? (Page 195)

(KB) Local – see 35.

Provisional proposal 38

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

(KB) We already have this in our County liaison group. If we needed a standard then basic standards can be determined and local variations added.

Provisional proposal 39

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

(KB) No response.

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)

(KB) No response.

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)

(KB) This suggestion is probably the most problematic of the whole consultation. Districts licence all three elements of the operation and can therefore control it and enforce the legislation. It is their duty and the general rate is used for such enforcement. All elements of the control and enforcement are within the district and can be dealt with by one office. Allowing operators to use out of district drivers and vehicles poses the question of who does the enforcement and who pays for it? A operation could be created and vehicles/drivers from all over the Country could be used. I accept that there may be a national standard on safety for vehicle and driver but this suggestion relies totally on the standards. Which authority will enforce the standards? The vehicle could be licensed in one area are never to be seen again except when programmed inspections are required. Proprietors and operators will licence vehicles and drivers in the cheapest area and operators will licence themselves in financially viable areas. Even a national operator could be created. Operators will not licence themselves in less viable areas and this may result in a lack of service in these areas. If vehicles and drivers are licensed in one (cheap) area and actually used in another area; who supervises and enforces them? The cheap area will have an administrative income, sufficient to support the function but the general fund would have to support enforcement. The other area would have no enforcement staff just someone to licence an operator. If joint enforcement was to take place, this may be miles apart, who has precedence? The other area would be expecting the cheap area to investigate. In conclusion, the suggestion will create numerous problems. There is no problem at present in my area or even in neighbouring areas. Why not suggest a working arrangement whereby districts are able to accept the cross border bookings if they wish, thus making for local arrangements which can be tailored to meet specific circumstances. (LC) Has concerns about cross border working with vehicles/drivers subject to a less stringent licensing regime coming into and providing services for our district's population.

Provisional proposal 42

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

(KB) I am in two minds over this. In principal I agree that return to base is an environmentally expensive exercise. It makes common sense that if there is a person waiting for a car in the out of area booked with the operator, that vehicle should be used for the journey. But, what about that car waiting after the first drop-off, how long does it have to wait until a fare is offered with a pick up in that area? It will make a problem for enforcement. Taxis will come into the area, no doubt claiming they brought in a fare from their licensed area (no records of journeys made in taxi hiring) and just wait until someone approaches it. There may be a phone call made to the phone line or maybe not. If something happens on the journey, how does the district deal with it? How does it trace the vehicle? If this occurred now then it should be a local taxi, somewhat easier to trace. With private hire, district can check the incoming journey back to the operator but again, there would be nothing stopping an operator having a advertising campaign in another district and

having vehicles in the target area waiting for calls. Legal at the moment. I think on balance, leave it as it is.

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)

(KB) Agree.

Question 44

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

(KB) No. They charge pre-booked rates from the rank to the pick-up and then to drop off. Fares can be negotiated with the proviso that if the metered journey is less than the negotiated journey, then the metered fare is applied. Private hire do a base to destination price, quoted before the hiring is accepted (or at least should do).

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)

(KB) Basic safety standards can be set out in primary legislation but it should be for the local authority to have the ability to set additional standards if appropriate.

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)

(KB) Disagree. Currently, an owner who does not maintain the car in its widest sense only has the sanction of having the vehicle licence put at risk. This can be an ongoing problem and it is normally when the vehicle undergoes a statutory or intermediate examination that faults are revealed. An example we had, a proprietor did not maintain his cars and uses the MOT (of which we do two per year) as a check to see if anything needs to be done. Very often the vehicles failed their MOTs and we were informed by the testing garage. It is very rare, if ever, that a vehicle develops a fault on the testing ramp it is more likely that the

*vehicle was being used whilst the fault was present.
We had to use threats that we could not enforce to obtain some compliance.
If we had the power to remove him as an owner then that would have solved the problem and therefore I believe that introducing a fit and proper test is required.*

(SK) Drivers must be fit and proper to ensure the safety of the travelling public. Surely, the owner of a vehicle should also be fit and proper and have the same sanctions against them.

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)

(KB) Basic safety standards can be set out in primary legislation but it should be for the local authority to have the ability to set additional standards if appropriate.

Provisional proposal 48

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

(KB) Agree strongly.

Question 49

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

(KB) Yes if the suggestions for cross-border work and abandoning return to base requirements are implemented.

Provisional proposal 50

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

(KB) No comment.

Question 51

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

(KB) Yes. He is contracting with the hirer for private hire work and it is reasonable to expect that he has been vetted and fit to hold such a position.

(SK) At the very least operators should have a "honesty test" because they hold information which may be of use to promote criminal activity e.g. burglary.

Provisional proposal 52

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

(KB) Disagree, within their own district yes, but using outside district operators, no. The local authority has no control of these and may become the norm instead of occasional. Enforcement issues can result.

It may seem draconian, but the current rules have resulted in the relatively good standard of care exhibited by operators. There is a real risk that a reduction in enforceable standards could result in a drop in service and care.

Question 53

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

(KB) It would help if the requirement to return to base was not retained.

REFORMING QUANTITY CONTROLS

Provisional proposal 54

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

(KB) Mixed feelings about this. We restrict numbers and there is no unmet demand from either potential customers or from existing proprietors wishing to add to their fleet.

If derestriction came here there would be the uncertainty on the viability of taxi services on off peak time. Drivers would only work at busy times.

Derestriction has worked in some areas and not in others.

Best to leave it as it is but remove the requirement for the survey which costs a fortune, particularly with a small authority like ours. In 7 years of licensing taxis, the office is yet to receive a complaint of there not being enough taxis, yet we have to spend £10,000 plus to prove what we say is true!

Question 55

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

(KB) Uncertainty.

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)

(KB) Yes. We could then meet the demand for licences with available resources and create the additional ranks that would be needed.

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)*

(AL) Yes, there should be a separate licence category for wheelchair accessible vehicles. This would enable improved and better monitoring of accessible vehicles and the ability of drivers to handle and transport wheelchairs and wheelchair users. This would increase the confidence of customers with disabilities in drivers to provide a positive experience when travelling by taxi.

These drivers need to be recognised as being physically fit and able to assist wheelchair users and to be recognised for their additional knowledge and ability in serving people with disabilities

Question 58

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

(AL) Yes, this would increase the number of accessible vehicles and encourage more drivers to be trained in handling and transport wheelchairs and wheelchair users.

(SK) A downside of this could be that people will obtain specifically modified vehicles to obtain a lower licence fee leaving vehicles for 4 – 8 passengers lacking.

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)*

(AL) Regular training to ensure drivers are up to date with disability etiquette and disability related legislation. Training on effective communication would also be helpful e.g. everyday sign language.

Provisional proposal 60

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

(AL) Not sure about this oneneed to explore this provisional proposal.

Provisional proposal 61

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

(AL) Absolutely.

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)

(AL) Yes, absolutely – see question 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? (Page 220)

(AL) Taxi licence plates should clearly state the number of the vehicle and contact details so that the ignored disabled passenger can lodge a complaint against the driver.

An obligation to stop would help – some independent disabled people may have difficulty in hailing a taxi.

REFORMING ENFORCEMENT**Question 64**

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

*(KB) Yes, but safety must be an overriding consideration and strict legislation put in place to ensure compliance. As an ex-police officer I can say that I had no problems stopping vehicles because I knew I had the back up if anyone failed to stop e.g. radio systems that alerted other officers and road checks/blocks could be put in place. What's more I would expect the Court to deal with a failure to stop severely. Local Authority officers will not have such a back-up and I would not put myself at risk.
We should be able to put in place signage and funnelling arrangements so that we can block the whole road and filter taxis & p/hire vehicles out.*

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)

(KB) Make it in any place and give the power to a licensing officer to enter any place where he suspects with reasonable cause that touting is taking place.

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)

(KB) Yes, that would make them listen but we must ensure that the impounding costs are met by the owner. Perhaps ensure that any offences such as an assault or obstruction are clearly defined and dealt with by the Court as if it was a police officer.

Question 67

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

(KB) I agree that compliance via FPT is something to consider and could well be of some use. The issue of the cost of a prosecution brought by local authorities needs to be brought into the equation. If the offence is one of requiring no mens rea then it is only a matter of fact and fairly easy to prosecute and a FPT appropriate. But if mens rea is an element then the cost can be high. Small authorities, like my own, suffer from reduced funding for prosecution.

Provisional proposal 68

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

(KB) As I do not agree with cross-border working I do not agree with this proposal. If a driver from elsewhere commits offences in my area, he is not licensed in my area and can be dealt with by me.

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)

(KB) NA.

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)*

(KB) 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)*

*(KB) I'm not sure that this would work in small authorities with small numbers of members. It would be very difficult and likely to cause problems if one sub-committee overturned the decision of another.
The existing democratic process works here.*

Provisional proposal 72

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

(KB) Agree.

Question 73

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

(KB) No except on a point of law. If two tribunals have looked at the issue and agree a decision that should be the end of it. If the licensing authority loose the appeal it would be in the same position as if it had to reconsider its decision as proposed above.

From: matthews glynne [REDACTED]

Sent: 05 September 2012 12:22

To: TPH

Subject: Consultaion paper No 203

Dear The Rt Hon Lord Justice Munby and Commisioners.

Re Consultation paper No 203 REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES.

May I strongly object to the proposal of this legislation, particularly proposal 11 (removal of the exemption for wedding and funeral cars from primary legislation).

It assumes that the taxi and wedding car industries are one in the same, simply because they both use a motorised vehicle.

Clearly they are not the same.

Brides book a wedding car a year in advance after due care and deliberation.

A taxi is hailed from the street or picked up from the local rank.

In my fleet I have:

1933 Rockne Studebaker

1958 Armstrong Siddeley

1964 Rolls Royce Silver Cloud

1965 Vanden Plas Princess Limousine

Would you see any of these on a taxi rank?

Conversely would a Skoda be wanted as a wedding car?

They are two different industries with different clientele

Do horse and carriages fall within this legislation?

Hot air balloons?

There is the contradictory idea of doing away with MOT's for cars that are pre 1960,

but increasing the legislation for wedding cars, most of which are pre 1960.

Taxis usually are only allowed to be 7 – 10 years old at most.

To have a vintage or classic wedding car at your wedding is a tradition with brides in this country.

A lot of the vintage and classic cars seen on our roads today owe their existence to the wedding industry for funding their upkeep.

It would not be economically viable for us to carry on operating.

As a lot of other companies I suspect would also close down.

In an economic recession this is another industry under threat. But this time by legislation rather than the financial climate.

Thousands of brides & grooms every year are pleased with the service this industry provides.

Where is the proof that this industry needs reforming?

There isn't a problem with the wedding car industry, red tap isn't needed.

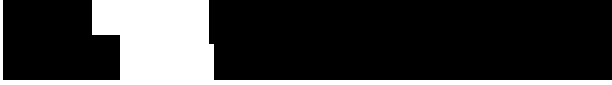
There is an old adage *“If it aint broke, don't fix it”*.

Thank you for your time in reading this, I'm sure common sense will prevail.

Regards

Glynne Matthews

Aarion wedding cars



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Law Commission Response

I am the Senior Licensing Officer at Slough Borough Council and I have worked in Licensing for 8 years, specialising in Taxi's. This is my own personal individual response

Provisional proposal 1

Ultimately the purpose of any legislation regulating the taxi industry is **public safety**. Keeping a 2 tier system will only continue with the public's ignorance and confusion and leave them vulnerable to those private hire drivers who illegally ply for hire. They are carrying passengers whilst uninsured and there are no bookings records so passengers and licensing officers have limited information if there are any serious issues – is this really a sensible conclusion?

This matter needs to be re-considered as it is one of the fundamental issues with the current legislation. I strongly feel that keeping the two tier system is not in the public interest but due to the lobbying power of the London Hackney Carriage trade it will remain the case and this issue will not be reconsidered.

Provisional proposal 2

Agree that London should be included as this would give clarity to the whole trade.

Provisional proposal 3

Would agree that there should be no restrictions.

Question 4

It would give clarity but there are certain areas that have issues with rickhaws / pedicabs and this would need to be considered.

Provisional proposal 5

Agree

Provisional proposal 6

Agree

Provisional proposal 7

Yes

Provisional proposal 8

Yes

Provisional proposal 9

My opinion is that this would not be in the 'course of business' as there is no profit being made as the purpose of carpooling schemes is to share the cost of the journey – therefore should not fall within the scope of the licensing regime.

Provisional proposal 10

Agree

Provisional proposal 11

As a licensing officer, I have never had any issues with wedding or funerals cars. If they are carrying out any additional work i.e. school proms etc then they will require a private hire licence in any case.

Wedding and funeral cars are booked well in advance of the event. The passengers/booker will know exactly which company they have used. The nature of both events means that passengers will rarely travel alone, it's normally during the day and the passengers are normally sober.

Vintage vehicles would be an issue as they would not comply with an authority's vehicle licensing conditions.

I believe it would be an overly onerous burden on the wedding and funeral trades for them to require a private hire licence.

Provisional proposal 12

NO! As stated in point 1, public safety is the ultimate purpose of the legislation and the contract exemption was **widely** abused by the trade.

I also find this proposal at direct odds with the proposal 11 – on one hand it is proposed to widen the scope of licensing to include wedding and funeral cars and on the other to re-introduce the contract exemption – it doesn't make sense!

Provisional proposal 13

Agree and should encompass private land.

Question 14

I am aware the some authorities have had issues with airports, particularly with ranks as they are generally located on the airports land. It would be a worthwhile exercise to explore the possibilities of making special provision for airports.

Provisional proposal 15

Agree

Provisional proposal 16

Agree

Provisional proposal 17

There would be but the definition would need to be clear. Would it include private land?

Provisional proposal 18

Agree

Provisional proposal 19

If the two tier system is to remain then yes.

Provisional proposal 20

This issue does need to be addressed as it does seem to be overly onerous on an individual that once a vehicle is licensed, it can only be driven by a licensed driver.

However there are things that would need to be taken into consideration;

- Would the licensing conditions apply at all times – i.e. displaying of licence plate, displaying badge, carrying insurance and MOT documents for example?
- Insurance companies need to be clear in there policies

Provisional proposal 21

If the legislation is clear there will be no need for statutory guidance.

Provisional proposal 22

If the two tier system is to remain then yes, the legislation should refer to taxis and private hire and drop any reference to hackney carriage.

Provisional proposal 23

NO – this will only add to the public's confusion.

The use of 'mini-cab' should be allowed for private hire.

Provisional proposal 24

YES - A national test should be developed in conjunction with VOSA (like the Private Hire/Hackney carriage test practical driving test developed by the DSA), this means any VOSA accredited test station could carry out the test.

Provisional proposal 25

National standards should apply to both private hire and hackney carriage vehicles. While there may remain a legal distinction between the two, they essentially do the same job – carrying members of the public from A to B and charging for it.

I cannot see the logic, when it comes to safety standards, why there should be any difference between the two.

Provisional proposal 26

SEE ABOVE

Provisional proposal 27

Once again I return to the point that public safety is the overriding priority.

Basic standards of communication are a huge problem in certain areas, Slough being one of them. For approximately 95% of all applicants applying in Slough, English is the second language. This can cause not only officers great difficulty but also the members of the public that they are driving.

I acknowledge that in this day and age a topographical based knowledge test is somewhat outdated when Sat Nav's can be used however there should be some form of course that should be undertaken and passed before being granted a licence.

A system based a Personal Licence application (issued in accordance with the Licensing Act 2003) should be put in place – i.e. a recognised national vocational qualification taken over 1 or 2 days covering the following areas (but not limited to);

- Customer service
- Personal safety/dealing with difficult situations

- Basic legal requirements of the legislation
- First Aid
- Basis vehicle maintenance

I strongly feel that the introduction of a national qualification will greatly increase standards in the trade, benefiting both customers and drivers. An NVQ is available but not currently mandatory.

Provisional proposal 28

I actually think there should be national signage for private hire and taxis with the local authorities logo/crest included to indicate who the vehicle is licensed with.

Would also suggest a national livery for all taxi and private hire vehicles. I believe that this would be a great enhanced to customer safety.

Provisional proposal 29

None if the standards are the same for both and they are set in conjunction with VOSA.

Provisional proposal 30

NO - National standards should apply to both private hire and hackney carriage drivers. While there may remain a legal distinction between the two, they essentially do the same job – carrying members of the public from A to B and charging for it.

I cannot see the logic, when it comes to safety standards, why there should be any difference between the two.

A national medical standard (Group 2) should be put in place/

Provisional proposal 31

Agree

Provisional proposal 32

Agree

Provisional proposal 33

VOSA must be involved in any technical advisory panel.

Provisional proposal 34

Yes

Provisional proposal 35

Should be

Provisional proposal 36

If the national standards are rigorous enough there would be no need to impose extra conditions on drivers and operators.

Provisional proposal 37

Yes so then the trade and licensing authority know exactly what is required from each party.

Provisional proposal 38

This option should be available to licensing authorities.

Provisional proposal 39

On the whole I am not personally in favour of taxis 'zones' however I am aware that they are of benefit in some areas.

Provisional proposal 40

I can see no benefit to a 'peak time' licence. It would be difficult to administer and enforce. The laws of supply and demand should prevail.

- How/who would determine a peak time?
- Could be open to legal challenge
- Increased enforcement would be required

Provisional proposal 41

Operators are not currently restricted in anyway when it comes to the pick and destination of a booking.

The restriction on operators is the fact they can only use drivers and vehicles licensed with the same authority as themselves i.e. the three licence rule.

Removing the 'three licence' rule would greatly benefit the trade however it could have some very negative implications if certain issues aren't addressed first.

- Would there be a national database for all drivers, vehicle and operators?

- Fees – currently set at a local level. If this remained the case (see Newcastle City Council V Berwick case) drivers would simply apply to the cheapest authority.

A national fee scale should be considered

Applicants could be made to apply to the authority where they currently reside – this would be a similar set up as that for a Personal Licence.

Provisional proposal 42

Agree

Provisional proposal 43

Agree – then the passenger has some form of redress if there is an issue with the fare.

Provisional proposal 44

NO – The meters fitted to taxis already calculate TIME & DISTANCE.

Provisional proposal 45

Set in primary legislation;

1. Enhanced criminal record check
2. National vocational qualification
3. Group 2 Medical
4. Driving licence check with the DVLA (this ensures that the issue produced is the current one)
5. DSA practical driving test to ensure driving standard has been maintained

Provisional proposal 46

Agree

Provisional proposal 47

Set in primary legislation.

A national test should be developed in conjunction with VOSA (like the Private Hire/Hackney carriage test practical driving test developed by the DSA), this means any VOSA accredited test station could carry out the test.

Provisional proposal 48

Agree

Question 49

Radio circuits should be covered and records should be kept. This can be a particular issue when dealing with complaints.

Provisional proposal 50

Agree

Question 51

Yes and for all staff working for the operator too.

Provisional proposal 52

Yes but should be required to maintain a record of the booking and company it is them sub-contracted too. The operator should also be under a duty to inform the customer that the booking is being sub-contracted and to whom.

Question 53

No as they are not under any legal duty to keep records of the journeys carried out as a Hackney Carriage.

Provisional proposal 54

Agree – market forces and laws of supply and demand should apply to the issuing of hackney carriage vehicle licences. Why should hackney carriage drivers have their trade ‘protected’ which in turn creates to an artificial price being put on the plate if it is transferred to another person.

Question 55

Rank space could be an issue, however they can be hailed and alternatives such as hailing points can be considered.

Would recommend a robust policy on the type of vehicle that can be licensed – i.e. all new hackney carriage vehicle licences issued will be for wheelchair accessible vehicles (WAV's) only.

Question 56

Would depend on the area and may be advisable in certain areas such as city centres.

Question 57

NO! Would only lead to confusion!

Equality Act 2010 – does that not cover the duties of a driver when dealing with disabled passengers?

Question 58

No as the cost of administration and enforcement is the same.

Question 59

Remove limits on hackney carriage vehicle licences and any new vehicle being licensed must be a WAV.

Provisional proposal 60

Agree

Provisional proposal 61

This is essential!

Provisional proposal 62

Yes

Question 63

Yes

Question 64

No due to the safety issues what would arise from stopping a moving vehicle. This power should remain with the Police.

Question 65

Driver education through robust national standards (should be part of a national qualification – see response to pp 27

A national public awareness campaign through various media – TV, radio, social networking sites.

All private hire vehicles should have door stickers. There should be a national standardised format but should also include the licensing authorities local, the same principle should be applied to the vehicle licence plates – The term ‘No booking no ride’ or ‘Advance Booking only’ (or something along those line) must be included on the door sticker.

Question 66

The power to impound vehicles may be desirable however it is far from particle. The issues are the costs, storage issues and legal implications of seizing a vehicle.

Licensing officers already have the ability by way of section 68 (LGMP Act 1976) to suspend a vehicle licence. This power to suspend should remain in any new legislation.

Question 67

The issuing of fixed penalty notices would be an extremely effective enforcement tool. It would be less costly to administer than referring drivers to sub-committee for action to be taken.

- There should be set national fees for FPN's
- Defined offences e.g. failure to display badge, plate etc
- Should override any penalty points system in place
- Revenue should be ring-fenced for enforcement

Provisional proposal 68

Yes, however there are a number of practical issues that need to be considered such as the access to data regarding drivers and the cost of enforcement.

Question 69

This could be a benefit but there would need to be clear guidance and issues regarding officers delegations would need to be addressed.

Provisional proposal 70

Agree

Provisional proposal 71

No, the Licensing Authority has made their decision on all the facts and evidence presented. The Magistrates court can direct that a matter is re-heard by the Licensing Authority in any case. This should remain a matter for the courts.

By allowing a second appeal to the Licensing Authority, costs will be increased for the authority as a second hearing would need to be scheduled.

Do drivers to incur the cost of the second appeal?

It is likely most drivers would appeal as if the initial decision was revocation for example, they could continue to work whilst waiting for a second hearing. If the decision is the same again then an appeal would be made to the magistrates, prolonging the period they can work.

Provisional proposal 72

Yes

Question 73

Yes

From: Steve Garelick @ Central Chauffeur [REDACTED]
Sent: 05 September 2012 13:17
To: TPH
Subject: Request for consideration for proposals
Proposal 19.

Electronic booking even if it is immediate should be allowable as Applications on smartphones can theoretically book a vehicle in the same street if it happens to be free.

Question 23.

Worldwide most people use the phrase Taxi even for prebooked services.

A harmonisation of this term would lead to less confusion.

Proposal 27.

It is necessary for Private hire to both have a topographic and linguistic test along with a test of Health and Safety.

Question: 28

A national uniform sign should be created to create conformity and recognition for all users of Private hire.

Additionally a national Operators licence should be created so this could be advertised on Websites to prove an operator is bone fide.

Question 37

Local Authorities should have statutory cooperation thus standards can be kept. Additionally there then will be a firm framework.

Proposal 41.

With the advent of internet bookings including bookings from overseas agencies it is logical for private hire bookings to be for any location.

This already happens in essence now.

Proposal 43.

A minimum living wage fare should be in place for private hire. The existing fares in London do not allow drivers in some companies to make even the equivalent of the minimum wage once daily expenses have been deducted. It is the **social responsibility** of government to remove this imbalance.

O may have the need to cover transfers urgently the

Question 44.

Absolutely it should be the case that a fare can be set higher a good example is when the driver drops many miles from their home without the chance of a return fare.

Proposal 50.

All facilitators should be licenced (Perhaps under a special agency licence) regardless of agency status eg internet sites, Hotels, Travel Agencies or individuals.

Proposal 52.

Permitting sub contracting is wholly necessary as it allows operators who cannot provide a driver immediately to another operation who can then cover the transfer.

Proposal 53.

Records must be kept by taxis for ALL transfers.

Proposal 62.

The need for signage is not necessary,

This would also prove difficult and probably for Private Hire Vehicles used for VIP's etc impractical.

Question 64.

Officers should have power to stop and impound vehicles.

Question 65.

Touting need to cover websites run by those who are not licenced and hide behind using sub contract drivers.

A better system to deal with touts that also includes benefits and other agencies to check the background of drivers to see if they or relations are taking benefits etc.

Proposal 68.

Powers should be similar to police powers for Licencing officers.

Proposal 69.

A commonality of rules would allow officers to ask for revocation of licences based on their findings if a breach is discovered in any district.

Additionally please put forward the recommendation to make sure all operators have similar equipment to the 999 service to identify numbers bookings originate from for driver and passenger safety purposes.

Steve Garelick.

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From: dean thomas [REDACTED]
Sent: 05 September 2012 13:22
To: TPH
Subject: Consultation - Private Hire Vehicles
Re Consultation Proposal No 11 Weddings & Funerals.

As a small private funeral director, with also a PCV industry interest as well, I feel that the continued block exemption for vehicles used mainly for weddings and funerals should continue. There are a number of factors to support this:-

1. The vehicles that are used in the profession are specialist vehicles and would probably not fit within the specifications of a private hire vehicle - many are older than the maximum age permitted by local authorities, and signage/plates etc would be indescreeet and undignified in the eyes of the general public.
2. We rely upon a pool of casual staff and the cost of licencing these would be prohibitive, especially when staff turnover etc is factored in.
3. the current system works given the low mileage etc travelled. Locally it is actually the licenced private hire vehicles and hackney taxis that appear to be badly maintained, driven to a low standard yet approved by local authorities.
4. A funeral fleet is an expensive asset and can only be costed over a long period of time without substantially increasing the cost of funerals to bereaved families. Our fleet is between 20 and 8 years of age, with a 100% MOT pass rate, an annual mileage of around 2k per vehicle and a book asset value of around £90k. A new fleet would cost around £330k new and around £250k late model secondhand - we could not afford this and probably would not be able to source vehicles in any case. this would give a competitive advantage to large groups.
5. The loophole that should be closed is the one that permits occasional private hire - a blanket approach of funerals and weddings only should apply to close this loophole.

My contact details for any further information or consultation are;

Mr D. Thomas
Director
Caerphilly funeral Services Ltd
Parc Avenue Funeral Home
Caerphilly

[REDACTED]

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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)

Leeds is a large licensing district with in excess of 500 hackney carriages and 3500 private hire vehicles. The city centre (both in terms of the transport hubs and the night time economy) act as 'honey pots' for the hackney carriage trade. A move to a one tier system would have significant effects as all those allowed to ply for hire would be drawn to the centre. This would have a negative effect on our transport infrastructure as well as reducing the provisions available in the district towns and villages and the suburbs, That would also affect the supply of suitable vehicles for certain disadvantaged groups such as those with disabilities and those with low income (who are proportionately higher users of private hire vehicles) and for contracted work for schools and social services.

Accommodating a one tier system in Leeds would require the introduction of zoning and potentially a range of other control measures to attempt to mitigate the problems.

In Leeds we have already seen the impact that greater numbers of hackney carriage vehicles in the city centre can bring following the switch of contracts at the Leeds Bradford International Airport from hackney carriage to private hire provision. The subsequent influx of hackney carriage vehicles into the city centre caused significant traffic problems including congestion and delays to public transport.

In common with many cities there is significant pressure on kerb space within Leeds city centre and the designated public transport box has very little scope to increase ranking facilities. It is imperative that the transport box flows freely and allows scheduled bus services to operate to prescribed timetables. An increase in permitted vehicles into the transport box would severely disrupt public transport services. Therefore the careful regulation and management of taxi provision is an important consideration for the wide operation of the transport system. Decisions on taxi management and regulation therefore have a direct impact on other transport services available to the public, especially access and reliability of bus services.

The volume of hackney carriage traffic also has significant bearing on their use of bus lanes in the city which is now being rolled out. Any significant changes to the numbers of vehicles affects the Council's ability to manage these lanes to be benefit of bus users and passengers which makes the ability to manage numbers an important control in the effective management of road capacity.

The congestion and environmental problems and the impact on consumer choice and affordability would outweigh any advantages that a one tier system might be perceived as bringing.

REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

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

In principle Leeds City Council agrees with this proposal but would not want to see national policy and guidance decisions led by London specific issues.

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)*

Leeds City Council strongly believes that all types of vehicle should be covered by revised Licensing legislation. Any exclusions should be clear on the face of the legislation and expressed in modern and unequivocal language. Different types of vehicles could be accommodated by differing minimum 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)*

It is felt that the activity is the determining feature; e.g. carrying passengers and not how they are carried. Even 'vehicles' that do not require a DVLA licence have usually to interact with the transport network and the importance of driver/rider behaviour and skill should not be set aside in this way.

Leeds City Council believed all of the types picked up in the response to provisional proposal 3 adequately rule out this approach.

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)*

There should be a clear distinction between a public service vehicle, a hackney carriage vehicle and private hire vehicle with clear national minimum standards.

Provisional proposal 6

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

Leeds City Council supports this proposal. Where new innovation is judged against such archaic language the result is that innovation can either be stifled or deemed to be outside it so that provision is uncontrolled and unmanaged as has been the case outside and within London with pedicab type vehicles. All exclusions should be clear, unequivocal and expressed in modern terminology.

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)*

In Leeds City Council's experience, the existing framework and working practices have proven to be extremely difficult to work with. Leeds has in place proportionate safety checks for hackney carriage and private hire drivers and vehicles, but it is clear that the Traffic Commissioners are facing resourcing difficulties which makes it extremely difficult for them to commit to enforcements in this area. It is the case that a group of 12 year old children can be driven around in such a vehicle, unaccompanied by an adult by a driver who has not undergone a CRB check.

Leeds City Council recommends that locally booked stretched limousines, drivers and operators fall within the control of the local Authority within a distinct category. It is the Local Authorities who have the expertise in this area of public transport and the will and resources to carry out the responsibilities.

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)*

Leeds City Council feels that a distinction of "service volunteer" would be more easily understood than a definition of "ancillary services." In all respects clear guidance and distinction between all vehicle types would be required.

Question 9

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

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

Leeds City Council believes that both types of vehicle should be excluded unless they are operating for gain or 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)*

Leeds City Council agrees with this proposal provided that there is full and timely consultation.

Provisional proposal 11

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

If the total sum of their work is limited to that distinct event and time scaled not to skip into what is essentially a transport service during the hours after the event then Leeds City Council would be satisfied it remained as is.

But to remove all doubt it could very easily be accommodated within a simplified licensing category with proportionate conditions made for the category.

Leeds City Council thinks this needs some simple clarity about the limitations. Then it is either 'in' or 'out' of a licensing framework.

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)

Leeds City Council believes that the contract exemption should not be reintroduced, although we accept that the current situation is far from ideal. A new and much clearer Licensing framework should eliminate the need for any contract exemptions.

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)*

Leeds City Council believes that it is not the “streets” that is important in these circumstances, but the definition of the type of vehicle and how it should be hailed/booked is the primary concern.

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, Leeds City Council believes there is a case for special provision in order to maximise competition and consumer choice.

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)*

Leeds City Council agrees with this proposal. However we note that many of the difficulties have arisen over time and therefore any list of factors should be reviewed regularly and perhaps with the ability to change the list through delegated powers.

Provisional proposal 16

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

Leeds City Council agrees with this proposal although believes that technological means should only be used to facilitate 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)

The distinctions between public hire and private hire should remain based on the hail and rank principle in a two tier system. It is whether the journey is pre-booked that matters not where the arrangement is made that should matter.

Leeds City Council opposes this.

Provisional proposal 18

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

Leeds City Council wholly supports this view.

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)

Wholly supported by Leeds City Council.

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)

Leeds City Council disagrees with this proposal. Licensed vehicles should only be driven by a licensed driver whatever the circumstances as public safety clearly out-weighs family convenience. It is important that drivers of licensed vehicles and other drivers are clearly differentiated and it would prove difficult to enforce if private drivers are found driving licensed vehicles. We already have examples of licensed drivers claiming the journeys are for families or friends when enforcing plying for hire allegations. This would be compounded if the drivers were family members as we would have to prove that the journey was not for leisure or none professional 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)

Leeds City Council 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)

Leeds City Council also considers that the term ‘Private Hire’ is a difficult concept for the public and wonder nationally if there would be an easier recognition of the term ‘mini-cab’.

This could be a distinct benefit to the trade.

Leeds City Council agrees with this proposal.

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)

There should be a clear distinction between the services at all times and a re-branding might help.

There should be no reference at all to the term ‘taxi’ when the main business is private hire.

Again a more recognisable name distinguishing between taxi and private hire might have business advantages for both sides of the market.

A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

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

Leeds City Council agrees that national minimum standards for drivers and vehicles should be established.

However, Leeds City Council disagrees that National standards should be maximum for private hire vehicles and not allow for any extra local conditions to be added which are specific concerns for that Licensing Authority. We strongly believe that the standard conditions in Leeds are good and would not want to lose these conditions as they may compromise public safety.

Provisional proposal 25

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

The proposal explained at 15.10 is accepted.

Provisional proposal 26

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

Leeds City Council would strongly oppose the removal of the authority of the Council's Elected members to impose those additional conditions benefiting the safety and quality of service and the expectations of the citizens of Leeds.

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 feel that significantly undermines areas of service and safety which might be different between Local Authorities. As one of the largest licensing authorities in the UK we face many challenges in a multicultural society that require very specific assessment and training needs. We strongly believe there is significant value in following the standards set in Leeds which we would not want to lose. For example, we would wish to retain English comprehension testing, in the interests of public safety, to ensure that passengers felt safe, that they were understood and charged appropriately.

Leeds City Council does not accept this proposal and is strongly opposed to it.

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*)

Leeds City Council considers it is essential to maintain clear vehicle signage in order for the public to distinguish licensed from unlicensed vehicles. Leeds City Council are also strongly in favour of retaining other local conditions which are shown to maximise public safety. Many conditions also encourage good customer care and the supply of vehicles suitable for a diverse range of passenger needs and 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*)

The major difficulty will be in setting a standard which is appropriate and not at the lowest common denominator. Leeds City Council therefore agrees in principle with National minimum safety standards, although wishes to retain the ability to enhance these standards above the minimum should the Licensing Authority deem that appropriate in response to local needs.

Question 30

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

Leeds City Council believes that safety standards for drivers of Hackney Carriage and Private Hire vehicles should be the same.

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*)

Vehicle Standards should not be limited to mechanical safety issues only. An example of this is signage on vehicles licensed in Leeds which are a clear safety feature to enhance public safety so the public know they are travelling in a licensed vehicle. Other types of conditions which could be set include equality act conditions and customer care conditions such as vehicle age, inspection intervals or for the safe carriage of luggage.

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)*

Leeds City Council agrees that changes to standards should require a full 12 week consultation exercise. A technical advisory panel including trade, vehicle manufacturer and licensing authority vehicle examiners should be used to inform draft conditions prior to consultation.

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)*

Please see answer to Provisional Proposal 32.

Provisional proposal 34

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

There is not a one size fits all and Local Authorities must be allowed to continue to make considered and proportionate conditions to suit the citizens of their areas.

The needs of one area might be over taken by the wider needs of other areas; for example, the training requirement Leeds City Council places on the drivers of wheelchair accessible vehicles and the disability awareness training they conduct across the whole licensing field might be considered to be onerous and unnecessary in small licensing areas.

LCC strongly agrees with this approach

Question 35

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

Leeds City Council agrees with proposals to set minimum National standards but does not agree with imposing any restrictions on Authorities to set additional standards in response to local needs. Councils are already sufficiently constrained by the need to act reasonably and proportionately.

Question 36

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

Leeds City Council has made it quite plain in its previous answers to similarly phrased questions that not only is it desirable but it is also necessary that Local Authorities have the authority and scope to meet the Licensing needs of their districts.

This Authority would consider it inappropriate to remove the powers under the existing legislation and regard it as a significant backwards step in de-professionalising the industry.

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)*

The West Yorkshire Authorities have recently undertaken a significant piece of work to consider the administrative and financial benefits of centralising decision making. The cost benefits could not be proved. Centralisation of decision making and the removal of Elected Members of each Authority to influence decisions to benefit their electorate in terms of conditions and standards significantly undermined any benefits. The whole notion flies in the face of localism. Taking decision making away from the local communities who are most affected is not a proposition Leeds City Council would sign up to.

This Authority however, recognises that there should be improved working relationships between the local authorities and the impetus to achieve that cannot rely on goodwill alone.

Provisional proposal 38

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

Leeds City Council believes an Authority should be able to do this if this is appropriate for local needs.

Provisional proposal 39

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

In a market such as Leeds where Proprietor's licences are regulated in number, there is no need for taxi zones. Should there be national legislation to remove the ability to restrict numbers this authority would in all probability need to be able to impose taxi zones in an attempt to place some control measures on the consequences of a de-restricted market. Please see the answer to question 1 for more detail.

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)*

Leeds City Council believes it would be useful in certain circumstances for Authorities to have this option, in addition to zoning powers, dependent on local 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)*

Leeds City Council objects to this proposal as it pre-supposes that there will be a National standard without any option for an Authority to add any local standards it requires. If powers to retain local standards were permitted the effect of this would be to encourage operators to apply in the area with lowest costs and lowest requirement. This would be of great concern to Leeds City Council if it was introduced. Please also see our comments on enforcement issues and funding which additionally highlight issues with the removal of local licensing requirements.

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 requirement to 'immediately return' could be replaced with a requirement to return 'within a reasonable time'. Private Hire vehicles should not be encouraged to wait for long periods in public places where they might be deemed to be plying for hire. The distance of the journey is not the issue, it is priced accordingly. It is already the case that an Operator can arrange return journeys with different clients (for example airport drop offs and collections).

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)

Where a market is regulated the local authority should retain the power to regulate maximum taxi fares.

It would be too easy for a relatively small number of Hackney carriages to operate a cartel and set fares at a much higher level. If the market was de-restricted there could then be more of an opportunity for competitiveness among fares but where there is very limited access to a service for example, at a railway station, hospital or late at night it would be too easy for Hackney carriage Proprietors to set a fare too high when there is little option for the travelling public to obtain another service.

In respect of Private Hire fares this Authority believes that it is in the best interests to allow Private Hire companies to set their own fares as there are strong competitive features within the city that indicate this is good practice 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)*

The proposal does not adequately cover the points raised in 15.56 to 15.59. The current statutory procedure for the setting of Hackney carriage fares is considered adequate and takes into account whether a journey is pre-booked or flagged down on the street. It is felt that it would be confusing and potentially unfair on the consumer to have varying arrangements within the taxi tariff. The vehicle is either a taxi operating within a structured fare regime or it is a Private Hire vehicle and this Authority feels there is little benefit to the consumer but there is potentially increased difficulty and misunderstanding with this proposal.

Leeds City Council does not agree with this proposal.

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 proposals here have appeared in different ways in the previous questions and the view of Leeds City Council is that it would welcome minimum standards set at a level that brought up the professional standards in some other local authorities. But to try and define a ‘fit and proper’ person so tightly might remove discretion for local decision makers.

In general terms, the understanding of a ‘fit and proper’ person and the various pieces of case law need to concentrate on the issues of today in respect of passenger safety and standards. Any definition needs to take account all of the potential issues including people trafficking, sexual exploitation, drug crime and organised crime.

Leeds City Council feels that it would be too constrained in its decision making in some instances and in others would be unable to offer flexibility in decision making because of the statutory constraints. There should be strong guidelines which emphasise and accept they cannot accommodate the whole range of criminal activity or public safety concerns so definitively and therefore allow scope for decision makers.

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)*

Any proprietor of any licensed vehicle must be a ‘fit and proper’ person to ensure that that the vehicle is maintained and controlled in a way which matches the essence of the whole of the statutory framework of licensing drivers, vehicles and Operators.

The Council can not place a requirement on a vehicle proprietor to keep records of whom he has allowed to use the vehicle at any time. An enforcement Officer has no power to require a proprietor of a licensed vehicle to answer any questions during an investigation. An unlicensed proprietor is under no obligation to assist a local authority about who has possession of a licensed vehicle or where it might be at any given time.

This is a significant gap in the existing legislation and must be taken up in the scope of any licensing reform. There is a risk that proprietors of licensed vehicles may have significant connections to the criminal fraternity or who may have significant criminal convictions themselves. It is in their best interests to have uncontrolled access to licensed vehicles. It has to be understood that a licensed vehicle sets an impression that it is going about a lawful enterprise and this is a perfect cover for people involved in criminal activity.

Leeds City Council strongly objects to the proposal.

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 response to this question has been touched upon many times in previous responses.

If there is to be primary legislation in needs to be set at a level that does not lower the standards attained by some local authorities. The bar must be set at a higher level so that the travelling public throughout the country know there is a higher level of conformity and safety and comfort within vehicles at a national level.

Leeds City Council would oppose any measures that would undermine the conditions that they have in place to achieve a high standard of licensed vehicles for the citizens of Leeds.

Provisional proposal 48

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

The opportunities are there for any individual to become a sole operator of a licensed vehicle, but to do away with Operator licensing would completely undermine any licensing enforcement function and the whole of the licensing regime would simply fail in the duty to safeguard the public

Leeds City Council believes that this is essential and is beyond argument.

Question 49

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

Leeds City Council believes this is necessary and sensible.

It also considers that it is insufficient to rely on the good will of all taxi associations and without doubt this should be placed on a statutory footing so that many of the requirements placed upon Private Hire Operators and individuals to co-operate with the Authority and to supply information when demanded should be exactly the same for taxi associations.

Provisional proposal 50

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

The existing legislation outside of London is sufficiently weighted to enable the Local Authority to make the operator responsible for a booking from wherever it came whether it is an individual or intermediary. The onus does rest with the operator, even if that operator was to pass it on to another operator within a licensing district so in respect of this we don't see a need for change.

Question 51

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

This Authority feels that not only should this be retained but there should be a change to the Criminal Record Bureau disclosures to enable the 'fit and proper' person test to be extended to enhanced disclosure.

This Authority also believes that those people employed by an Operator in the role of 'Office manager' should similarly fall within the CRB process.

This could include certificates of professional competency for Private Hire operators.

Provisional proposal 52

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

Leeds City Council's view is that you either have local licensing or you have national licensing. This Authority believes that it is best served by local licensing and on that basis it would not agree with this proposal.

Question 53

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

Leeds City Council strongly believes that records should be kept of pre bookings for both Hackney Carriage and Private Hire vehicles. This aids enforcement and for drivers and proprietors and operators in dealing with public complaints.

REFORMING QUANTITY CONTROLS

Provisional proposal 54

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

(Page 213)

Experience shows that various Authorities have de-restricted and then had to re-restrict to deal with the problems caused by the influx by of additional taxis. The problems of congestion, road blockage are not minor issues. Traffic control in Leeds already struggle with preventing blockages to the transport infrastructure and to consider the consequences of double the number of taxis coming into Leeds at different times of the day and night makes the whole proposition unworkable.

The market is not always self levelling in respect of all aspects. It might create a more ready access to taxis at certain times but that does not necessarily contribute to the existing legal understanding of what an unmet demand is and so it is unreasonable in the view of the Authority to simply open the floodgates simply because there is an aversion to this form of regulation.

De-regulation may work well for some small authorities but work less well for larger authorities.

In addition to the congestion problems the environmental issues in Leeds city centre would be significant. Please see the answer to question 1 for more detail.

Leeds City Council strongly opposes this proposal.

The power to restrict numbers should be maintained and should no longer rely on the concept of unmet demand given the importance of congestion and environmental impact and the impact on availability and choice in a de-restriction scenario.

Question 55

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

In Leeds, the Hackney Carriage trade lost the Airport contract and as a consequence we saw evidence of extreme congestion, loss of effective controls in the transport infrastructure, significant inconvenience to other road users, insufficient rank space, difficulties in enforcing the competitive issues that would arise between drivers, the environmental impact, and no consumer benefits.

If ability to restrict the numbers was lost these problems would be repeated and exacerbated. There are similar issues associated with the use of bus lanes.

There is significant pressure on kerb space within the city centre for bus stops and loading facilities, and there is very little scope to increase ranking facilities. It is imperative that the transport box flows freely and allows scheduled bus services to

operate to prescribed timetables. An increase in permitted vehicles into the transport box would severely disrupt public transport services.

More widely the authority has identified the potential benefits from allowing the wider use of bus lanes by Hackney Carriages. This was a finely balance decision based on the benefits to taxis users when set against any disadvantage to the bus services and cycles currently permitted. The fact that this was a regulated and managed service allowed this positive step to be taken with the certainty that the City Council would be able to continue to guarantee service standards for bus services and their passengers. Without this certainty such a policy would not be viable as the large benefits to the nearly 80m per annum bus journeys in the city could not have been secured.

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)

Leeds City Council objects strongly to the removal of quantity restrictions but believes that if there is a decision to move to unrestricted numbers, then this needs to be done in a controlled and phased manner.

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)*

Part 1 is already accommodated within equality legislation and this Authority has introduced a policy whereby over 50% of its vehicles are wheelchair accessible.

Part 2 – All of the ranks in Leeds City Centre cater for the Wheelchair accessible vehicles.

It is the experience of this local Authority that the biggest problem for wheelchair users is attracting a Hackney carriage to the suburbs to be collected and then taken on what might be a relatively short journey. A Hackney Carriage driver would rightfully argue that a journey from the city centre to the suburbs for a short journey does not cover their costs and there has to be some sympathy with that.

Perhaps a way of dealing with this issue would be to tackle it from an entirely different perspective and introduce legislation that requires Private Hire operators to have a percentage for their fleet at all times that have wheelchair accessibility. This would be a

highly contentious move but already some local Private Hire operators recognise the value in having wheelchair accessible vehicles in their fleet.

We do think it is unreasonable for the Hackney Carriage trade to be solely responsible for accommodating wheelchair users and it is impractical at a local level to place that requirement on local Authorities in their decision making and would be very challengeable.

Central government shies away from numbers in relation to Hackney Carriage wheelchair accessible numbers but could issue best practice guidance in relation to licensing Private Hire Operators and the requirement to have WAV's.

Question 58

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

This Authority sets a standard fee. An accessible vehicle for one person is often not suitable for another. The only clear distinction is for wheelchair accessible vehicles. If there was to be a difference the in fees there the savings would be marginal for the Proprietors of wheelchair accessible vehicles and have to be offset against those who have saloon vehicles. So while the principle sounds good the maths mean that someone else has to pay and the benefits of a slightly reduced fee might not be attractive enough to encourage other proprietors to have wheelchair 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)*

Earlier on it was suggested that private hire operators could contribute on a more significant basis to easing this problem but we would repeat that this would be a contentious proposal that would in all probability be strongly contested.

Leeds City Council has partnerships meetings with disability groups and they are included in the approval and decision making process. There is available best practice for all signage, ramps, handles, grips etc and the compliance levels should be set as a national mandatory level. This Authority already meets those standards,

Provisional proposal 60

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

This is an issue that has been well debated since 1998 and it would be unfortunate if Authorities who have dealt with the issue in the same way as Leeds were now unable to maintain the benefits that come with large numbers of wheelchair accessible fleets by not having an arguable basis for it. We do understand that it would be difficult to set a quota but there should be some best practice guidance introduced that would enable affected groups to have some distinct leverage if local authorities were not committed to supplying appropriate number of wheelchair accessible vehicle.

Provisional proposal 61

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

Leeds City Council believe this is essential but within a structured and credible framework.

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)*

Leeds City Council agrees with this proposal

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)*

Very difficult to manage but any changes to legislation should include control measures to deal with a range of such issues. The rules of evidence would make it difficult to prove and whilst test purchasing might contribute to the solution it would still be difficult.

This is an area of concern with wheelchair users in particular and a working solution with strong sanctions would be of significant benefit.

REFORMING ENFORCEMENT

Question 64

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

Leeds City Council believes this to be the case.

All of the attendant health and safety issues, education and training can follow but the authority to do so would be advantageous and reduce the reliance on the Police and make multi agency operations more viable and easier.

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)

Leeds City Council believes that the present legislation is sufficient. If there is an issue there needs to be a will to resolve it with national guidance to LA's and courts to consider.

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)

Leeds City Council believes this would be desirable as generally a breach of local conditions should not trigger such an action and the judgement line should be safety or repeat offending, or non-compliance with a suspension/defect repair notice.

Question 67

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

Leeds City Council believes this would be useful but any use of a fixed penalty scheme would need to be proportionate not only to officer time involved but the level of offence committed in order to act as a suitable deterrent.

Provisional proposal 68

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

If there is to be a standard minimum National licensing scheme portable throughout the country then national enforcement powers would be essential, we do not agree with such a scheme for the reasons outlined above.

There are significant practical and legislative obstacles around delegation of powers that would need to be overcome for such a proposal to be workable in practice.

It also needs to be recognised that busy areas will then effectively fund the enforcement activities of other Licensing Authorities To address this the 'home' Licensing Authority may have to pay for any enforcement activity conducted by another Authority against any vehicles, drivers or operators it licences.

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 with the previous question If there is to be a standard minimum National licensing scheme portable throughout the country then national enforcement powers would be essential, We do not agree with such a scheme for the reasons outlined above.

Again there are significant practical and legislative obstacles around delegation of powers that would need to be overcome for such a proposal to be workable in practice.

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)*

Leeds City Council agrees to this proposal.

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 very issue went before our Licensing Committee for re-consideration recently and it was decided not to introduce this facility. The benefit to the state in terms of reduced costs in the court process are outweighed by the increased administrative costs incurred in supporting the

system.

Therefore the Council's current position is not to support this proposal.

Provisional proposal 72

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

Leeds City Council agrees with this proposal although licensing expertise within the courts has been lost since the Licensing Act 2003 was implemented. Courts should be encouraged to train magistrates on licensing issues and/or create a pool of expertise in their local areas.

Question 73

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

Yes, but only in respect of an error in law.

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Public Law Team (Taxi and Private Hire)

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Our Ref : EMN/KR/

Your Ref :

Date : 05 September 2012

Dear Sirs

Re: Reforming the Law of Taxi and Private Hire Service

For just over 20 years I have advised clients working in the hackney carriage and private hire vehicle businesses about their licences.

A number of the cases in which I have been involved have arisen from the efforts of my clients to avoid the consequences of the provisions of the 1976 Act which prevent sub-contracting between a private hire operator licensed by one authority and a private hire operator licensed by another authority.

Changing the sub-contracting law so that it matches the law applying in London would permit private hire operators to expand their businesses without the artificial restrictions imposed by local authority boundaries. The service which operators could then provide to the public would be improved because the restriction on the availability of vehicles outside their own licensing districts would be eliminated.

There is no evidence that the existing law regarding sub-contracting provides any benefit to the public or saves the public from harm. On that basis it is hard to see why the current sub-contracting law exists.

Yours faithfully,



E M Nicholson
Nicholson & Morgan



From: Claire Gould [REDACTED]

Sent: 05 September 2012 15:52

To: TPH

Cc: [REDACTED]

Subject: Reforming the law of taxi and private hire services

We as a firm oppose the proposal No 11: Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation.

Regards Claire Gould

On Behalf of F P Gaunt & Sons Limited

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From: Enquiries [REDACTED]

Sent: 05 September 2012 15:52

To: TPH

Subject: Reforming the law of Taxi and Private Hire Services

Dear Sir,

JB Shakespeare in Croydon have been funeral directors since 1877 - and as you would imagine, for such a traditional service, there have been many changes over the years.

Some are more welcome than others and (proposal 11) ceasing to exempt the industry from Private Hire and Taxi Licensing regulations is of the more unwelcome variety for a number of reasons.

1. It would add significantly to the costs of a funeral and in times of austerity it should be noted that the inflation-busting increases are coming from the public service areas - like crematorium fees.
2. A limousine in a funeral cortege is very different from a taxi hire in terms of the journey it makes, the way it is driven, the way it is booked.
3. As we are not a taxi service we do not have designated drivers whose sole job is driving the limousine. The cost of licensing every member of staff would be prohibitive and unnecessary.
4. This government have vowed to cut red tape - this only adds to it.
5. If it ain't bust don't fix it - what evidence is there of a need to take away the exemption.

Yours sincerely

Chris Dighton
MD for JB Shakespeare Ltd.

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May 2012

Reforming the law of taxi and private hire services

Law Commission

REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

Summary

This paper is a summary of the full Consultation Paper, Reforming the Law of Taxi and Private Hire Services, Law Com 203, available at our website at www.lawcom.gov.uk (A-Z of project > Taxi and Private Hire Services).

THE LAW COMMISSION: HOW WE CONSULT

About the Commissions: The Law Commission was set up by section 1 of the Law Commissions Act 1965. The Commission has the purpose of promoting reform of the law. The Law Commissioners are: The Rt Hon Lord Justice Munby (Chairman), Professor Elizabeth Cooke, Mr David Hertzell, Professor David Ormerod and Frances Patterson QC. The Chief Executive is Elaine Lorimer.

Topic: This consultation covers the reform of the law on taxi and private hire services.

Geographical scope: England and Wales

An impact assessment is available on our website.

Duration of the consultation: 10 May to **10 August 2012****

**** Deadline extended on Taxis and Private Hire Services consultation to 10th September 2012**

Published Date: 01/Jun/2012

The Law Commission is extending the deadline for its public consultation on the regulation of taxis and private hire vehicles. Responding to requests from members of the taxi and private hire trades, the Commission is extending its consultation by an extra month until **10 September 2012**.

Frances Patterson QC, the Law Commissioner leading on the project, said:

“This is a once-in-a-generation opportunity and we want all those involved to feel they have had a fair chance to be heard.

“We recognise that people in the taxi and private hire trades out of London face practical difficulties in being able to get together to formulate responses. We also know that many of the London-based taxi drivers and private hire operators, as well as licensing authorities, are facing a particular challenge this summer because of the extra work that will come with the Olympics.

“As a result we thought it only right to give a longer time within which people can submit their responses.”

After the consultation: We plan to publish a final report with a draft Bill in November 2013. It will be for Parliament to decide whether to change the law.

Freedom of information: We will treat all responses as public documents. We may attribute comments and publish a list of respondents' names. If you wish to submit a confidential response, it is important to read our Freedom of Information Statement on the next page.

Availability: You can download this consultation paper and the other documents free of charge from our website at:

<http://www.lawcom.gov.uk>

(See A–Z of projects > Taxi and Private Hire Services)

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).

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1

SUMMARY

INTRODUCTION

1.1 In July 2011, the Law Commission agreed to undertake a law reform project on the law of taxis and private hire vehicles. The project was proposed by the Department for Transport, but when we work on a project, the Law Commission is independent of the Government. This paper summarises our full consultation paper, which is available at <http://www.lawcom.gov.uk> (see A-Z of projects > Taxi and Private Hire Services). It reviews the law, and makes provisional proposals for reform. We now seek your comments and views on our provisional proposals and questions.

1.2 This summary is split into three main sections:

- (1) an introduction and outline of key proposed changes;
- (2) the case for reform and a brief discussion of the main themes and impact assessment; and
- (3) a full list of our provisional proposals and questions.

WHAT THIS PROJECT IS ABOUT

1.3 In England and Wales, both taxis and private hire vehicles must be licensed. There is a fundamental legal distinction between taxi and private hire services. Taxis, referred to as “hackney carriages” in much of the legislation, can be hailed on the street or work at a rank for immediate hire. Only taxis can do this, which is referred to in law as “plying for hire”. Alternatively, taxis can be booked in advance either directly with the driver or through a third party without the need for an additional licence. By contrast private hire vehicles cannot “ply for hire” and can only be booked in advance. Private hire drivers cannot take bookings directly and can only take passengers that have booked through a licensed operator. A person engaging in any of these activities without the correct licence is committing a criminal offence.

Consultation

1.4 It is of primary importance that the views expressed in our consultation documents are only provisional, so that they can form the basis of a discussion on consultation. We are not firmly wedded to any of these proposals. Indeed, experience suggests that our final report is likely to differ substantially from the provisional proposals we now make.

1.5 This consultation period will be our main evidence-gathering exercise, and the only opportunity for the public to directly provide their views. After this consultation we will analyse responses and reconsider our proposals. We aim to produce a report with our final proposals and a draft Bill by November 2013.

1.6 The opportunity to discuss the issues with interested parties is always most helpful. We would therefore welcome invitations to attend or present at relevant conferences, seminars, workshops or other events during the consultation period.

2

Our approach

1.7 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. Nor does it mean the removal of all or even most regulation. Rather, it means that we must look at each element of the existing regulatory system to ensure that it does not impose unnecessary costs on the industry, and that it is structured in the right way to accomplish its supposed ends.

1.8 We have applied this view of the right regulatory approach in the provisional proposals and questions we ask in this review. 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.

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.
- (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.
- (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.
- (4) London would be regulated under the same flexible framework as the rest of England and Wales.
- (5) Licensing authorities could no longer limit the number of taxi licences.
- (6) More enforcement powers for licensing officers against out-of-borough vehicles and drivers.
- (7) Disability awareness training for drivers.
- (8) Introduction of a statutory definition of “plying for hire” (but without changing it in substance).
- (9) Weddings and funeral cars would no longer be exempted through primary legislation.
- (10) Allowing leisure use of taxis and private hire vehicles.
- (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.
- (12) Clearer exclusions for volunteers and other services where transport is not the main service provided, such as childminders.
- (13) Powers for government to issue binding statutory guidance to create greater consistency in how taxi and private hire legislation is applied.

1.10 We also ask questions about the following:

- (1) a new category of wheelchair accessible vehicles;

- (2) extending operator licensing to taxi radio circuits;
- (3) possible use of the term “taxi” in respect of private hire services if used in phrases like “pre-booked taxi only”;
- (4) reintroducing a (revised) contract exemption;
- (5) improving the enforcement powers of licensing officers; and
- (6) a new “peak time” taxi licence that could only be used at particular times of day as decided by the licensing authority.

1.11 This list only provides simplified, headline points and does not include all the changes we propose. Some of the provisional proposals would not give rise to change in London, such as allowing sub-contracting and leisure use of vehicles.

THE NEED FOR REFORM

1.12 The law on taxis and private hire vehicles is fragmented, complex, and out of touch with 21st century life. The oldest taxi legislation that still applies dates from 1831 and the regime has been extended, amended and adapted ever since. Private hire vehicle legislation was not introduced until 1976 (1998 in London), in response to growth in the unlicensed trade, and many regard it as hastily constructed and ill thought out.

1.13 Both taxi and private hire services are highly regulated. The pre-booked market is reasonably competitive. Customers can shop around for the provider they prefer and negotiate on price. A customer who is unhappy with the service given by a company can choose a different firm in the future. They may tell their friends to avoid that firm. The same competitive forces do not apply in respect of taxis. Ranking and hailing are not competitive markets. The customer has little choice but to take the taxi hailed or the first taxi at the rank. This can affect the justification for the level of regulation in each market.

1.14 Safety is a key justification for the licensing system as a whole yet there are no national minimum safety standards for drivers and vehicles. Licensing officers have limited enforcement powers which makes it hard for them to make sure the rules are complied with. Disability groups have highlighted significant problems in ensuring accessibility and the safety of disabled passengers.

1.15 There are aspects of the current system, including quantity restrictions on taxi licences and restrictions on cross-border activity, which can also hinder effective competition. Not only can this make taxi and private hire services more expensive than they need to be, but it also has a restrictive effect on business. Our proposals are aimed at simplifying and streamlining the legal framework and removing unnecessary and burdensome regulation.

1.16 The complexity of the regulatory regime, which is based on numerous pieces of legislation, and the piecemeal way in which it has been put together, have left many key concepts and distinctions unclear and difficult to apply. There are many grey areas about what can count as a taxi (can it cover pedicabs for example?) or a private hire vehicle (do child minders and volunteers need a private hire operator licence where they drive as part of their work?). The rules restricting operators to inviting or accepting bookings only within their licensing area do not fit easily with technological developments such as internet and mobile phone bookings. These apparently basic questions have no clear answer and different approaches are taken in different parts of England and Wales.

THE MAIN THEMES OF REFORM

A new statute for taxi and private hire services

1.17 Our aim is to clarify and simplify the existing law on taxis and private hire vehicles and to promote more consistency in bottom-line safety standards across England and Wales, including better provision for disabled passengers. The other key aim of this review is to deregulate aspects not linked to protecting public safety in order to encourage more competitive services. We propose to do so by recommending a new Act of Parliament for taxi and private hire services.

1.18 We are not proposing major changes to the way in which licensing is administered and enforced. As now, local authorities would be responsible for issuing licences, and for taking action (with the police) against those who break the law. In respect of taxis, local authorities would continue to have a standard-setting role, over and above the national minimum safety standards. Matters such as topographical knowledge, fares and local requirements (such as the turning circle requirement in London) could continue to apply.

Retaining a two tier system

1.19 We think that the legal differences between taxis and private hire vehicles (often known as mini-cabs) are worth keeping. This is sometimes referred to as the two tier system. The alternative, a so-called one tier system, would have a unified category of licensed vehicle doing all (or most) of the same work – pre-booked, hailing and ranking. We accept that the differences between taxis and private hire vehicles are not always well understood by the public, and that this provides an argument for a single tier. But our provisional view is that the distinction between taxis and private hire allows for more targeted regulation. Traditionally taxis can have regulated fares and local requirements like topographical knowledge can be very important. By contrast, private hire services work much more like a free market and recognising the legal distinction means both sides of the trade can work better.

London

1.20 There is currently a different legal framework for London. We recognise the important differences which apply to London but also think that our provisional proposals are sufficiently flexible to allow for these differences given the powers we propose for the Secretary of State and Transport for London (as the relevant licensing authority). We believe this can be done without affecting the distinctive and iconic London black cab.

1.21 We propose that our reforms should apply throughout England and Wales including London. We also invite views about how London may be affected differently in respect of all of our provisional proposals and questions.

Welsh devolution

1.22 We think the same system should apply in Wales as in England, but, in light of devolution, Welsh Ministers would have the powers that the Secretary of State has in England.

Taxis and the local connection

1.23 We provisionally propose only moderate changes to the regulation of taxis apart from removing licensing authorities' ability to limit taxi numbers. We suggest retaining the local link with the setting of taxi conditions and fare regulation, licensing and enforcement. We consider the legal definition of "plying for hire", which covers hailing and ranking, but do not propose radical change.

1.24 We do, however, provisionally propose that the Secretary of State and Welsh Ministers should set national *minimum* 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, also establishing national minimum standards, which match the national standards for private hire vehicles (see below), will remove incentives for drivers to try to play the system by being licensed in areas with lower standards. It will also help with the enforcement of conditions across each country.

Taxis and Quantity Restrictions (**Deregulation)

1.25 We also provisionally propose that the power to limit the number of taxis which can be licensed 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. Transport for London does not have the power to limit the number of taxi licences, so our provisional proposal makes no change for the capital. (See [Provisional Proposal 3](#) below. DLP)

Private hire and national standards

1.26 Our provisional proposals are more far-reaching in respect of private hire licensing. We think that the Secretary of State and Welsh Ministers should set national standards for private hire vehicles, drivers and operators, 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 rules and regulations to guarantee quality or control fares. We ask if there should be an exception to allow local standard setting about signage. Local licensing authorities would continue to issue licences and to be responsible for enforcement. We also look at whether operator licensing should be extended to cover, for example, taxi radio circuits.

1.27 We propose that the national standards for private hire vehicles should be set at the same level as the minimum standards for taxis. Both in respect of taxis and in respect of private hire vehicles, the power to set standards would allow for different standards to be set for different descriptions of vehicles.

Cross-border

1.28 Our provisional proposals aim to clarify the ability of private hire operators to work cross-border. We suggest that operators should no longer have to use drivers and vehicles all licensed with the same authority, enhancing the ability of business to work more efficiently, as well as permitting sub-contracting (adopting the current position in London). **The location where a booking is accepted would no longer be critical, which would fit better with technological developments in mobile technology and the internet.**

1.29 Our provisional proposals in respect of more effective enforcement and common bottom-line safety standards could help reduce incentives for drivers to seek taxi licences in locations far away from where they actually intend to work on a purely pre-booked basis (akin to a private hire vehicle). **We do not propose to introduce a return-to-area requirement for vehicles dropping off customers outside their licensing area.**

Increased enforcement powers

1.30 We make provisional proposals to improve enforcement of conditions. We suggest improving licensing officers' powers; and ask about the effectiveness of tougher sanctions such as impounding vehicles.

1.31 The existence of national standards for private hire and minimum standards for taxis should itself make enforcement easier, particularly cross-border enforcement (that is, enforcement by an officer of a licensing authority other than that which licenses the taxi or private hire vehicle).

1.32 We also make proposals designed to improve cross-border enforcement, and look at the extent to which enforcement officers' powers could be strengthened.

Equality and accessibility

1.33 Taxis and private hire vehicles provide vital transport links for many older or disabled persons as well as people with reduced mobility. Providers of transport services have a legal obligation not to discriminate against disabled people, and local authorities are subject to a duty to promote equality in the exercise of their functions.

1.34 We consider how to promote safety for disabled passengers through, perhaps, introducing a separate licence category for wheelchair accessible vehicles and vehicles adapted for other disabilities. We considered the merits of introducing national quotas of accessible taxis but suggest that such a system does not appear workable. Our provisional proposals include compulsory disability discrimination training for taxi and private hire drivers.

1.35 This is only an extremely short account of our provisional proposals, which cover a number of other detailed areas, including hearings and appeals.

IMPACT ASSESSMENT

1.36 This consultation also includes an impact assessment and we ask consultees for information about the costs and financial benefits likely to arise from different aspects of the review.

1.37 Our expectation is that the review as a whole will be deregulatory, and it will be important to understand the extent of likely savings. Where some new regulatory pressures arise (for example in respect of accessibility or licensing of limousines) it will be equally important to understand how large those new burdens are likely to be. The impact assessment is available at <http://www.lawcom.gov.uk> (see A-Z of projects > Taxi and Private Hire Services).

LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

1.38 The list below sets out our provisional views for consultation. They are divided between provisional proposals, where the Law Commission has a preliminary stance and is seeking views on it, and open questions where we are seeking more evidence and have not reached a preliminary position.

1.39 It would be helpful if you could give us your views on the provisional proposals and questions we ask, as well as on any other areas you feel are important. The page numbers refer to the full consultation paper which has more detail.

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)

A **one-tier** does not have sufficient scope within its framework to cope with the various requirements within the public or private hire trade. Simply by looking at these two separate methods of hiring a vehicle defines the requirement for a **two-tier** system (public or private) and I agree with this proposal of retaining the two-tier system. However, there then should be the subdivision of a further two or three or more **multi-tier** systems to further accommodate the different and diverse aspects of the public/private hire trade that would also have its own merits. Novelty vehicles, wedding/funeral cars and horse-drawn hackney vehicles etc. could all be catered for in a national minimum standard that is basically applicable to all tiers with the necessary differing requirements being tailored to suit the individual aspect or tier. This multi-tier sub-system would also cater for future advances in transport technology by already having the basic ground rules in existence and would have the advantage of adding another tier with its own specific requirements. One sub-tier of the public hire could take in Item 1.34 above inasmuch that this Authority could issue an unlimited amount of taxi plates as described in **Provisional Proposal 3** below.

REFORM OF DEFINITIONS AND SCOPE

Provisional Proposal 2

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

Although London is unique in comparison to other British cities it is not unreasonable for it to be treated differently with some modifications within a national framework. My main concern is that London will want to dominate any changes in its favour. It would be unreasonable to demand that some of London's archaic and tougher taxi requirements i.e. turning circle of hackney vehicles be implemented without consultation in outlying regions. Within this borough alone approximately 90% of licensed hackneys are saloon vehicles incapable of meeting the above requirement and there is simply no reason to change.

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)

I agree with this proposal and with the content of 1.33 & 1.34 above. Rather than the government issuing a wheelchair access percentage that they think is correct for a given area or council, a better approach would be for that council to issue an unlimited number of separate taxi licences that would be available for anyone who wishes to licence a w/chair accessible vehicle that matches or exceeds that council's requirements or criteria. These extra licences would only be available for wheelchair accessible vehicles and not transferrable to saloon vehicles. All existing taxi licences to be given permanent 'grandfather rights*' for use on any type of suitable vehicle which would include the continued use of saloon vehicles at public ranks and preferred by many customers both able bodied and (partially) disabled. *There is the knock-on effect that this may also help to preserve the initial investment paid by hackney proprietors when entering the trade as there would be no vehicle restriction applied to these plates. ***(A similar sub-tier already exists in neighbouring Blackpool where 44 hackney carriage plates are designated for horse drawn use only - landau's, and cannot be transferred to motorised vehicles)***

Question 4

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

Whilst I understand the logic of this proposal, the definition of a vehicle requiring a 'driving licence' may drastically change as technology advances. For a current example of an anomaly; the use of small personal hovercraft that can carry up to two passengers + driver/pilot require neither a driving or flying licence and may become a viable reality for the carriage of passengers, whilst not necessarily down the 'High Street' but specially adapted craft could be made available for hire in difficult rural areas.

I would also consider keeping vehicles such as the pedicab or rickshaw within the current or future licensing 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. (Page 165)

I agree and I have always had a problem with an unscrupulous operator who licences small vehicles as PSV and charges separate fares. Without attempting to cause an unnecessary problem within the coach or bus industry, I feel that to qualify to run such small vehicles (<8 passenger seats) then the company should have a minimum of two or three large vehicles (>8 passenger seats) licensed as PSV at all times and the number of smaller vehicles cannot exceed the number of larger vehicles licensed. Anybody wishing to licence (only) a smaller vehicle, whether it be at separate fares or not, should have it licensed as private hire as they are determined to make a profitable business from the sole supplying of a vehicle & driver. My thoughts are different for person(s) related to other areas discussed later including carpooling and ancillary work.

Provisional Proposal 6

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

I agree with this proposal and as in **Proposal 5**.

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)

I agree with this proposal and as in **Proposal 5**.

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)

I agree with this proposal and with the government’s current guidance on the provision of ancillary transport within a particular service. www.dft.gov.uk/publications/phv-guidance-note

<http://assets.dft.gov.uk/publications/phv-licensing-guidance-note/phv-licensing-guidance.pdf> (page6)

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) Leave as is to HMCR.

(b) As such clubs do not exist in this or immediate areas, I cannot comment on this one. However to allow female only taxis would surely have to allow for male only taxis or other categories of passenger. Allowing members clubs creates further ‘grey areas’ that this Reform is attempting to clear up.

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)

I agree with this but dependent on the type of vehicle being excluded i.e. emergency services and armed forces etc.

Provisional proposal 11

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

I agree with this in principle but I do feel that exclusions could be made specifically for the bride/groom or hearse vehicle for example a vintage Rolls-Royce or similar “different” vehicle that would not pass any vehicle licensing 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)

NO. One of the main problems with the 7 day contract was that limousines were hired for 7 days and the contract then broken by both parties after say 6 hours and incurring a 'broken contract' penalty of 50p or £1. Please refer back to [Provisional proposal 5 & 7](#)

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)

I agree with this. In the case of car parks attached to supermarkets or train stations the hackney loses its status on private land and it could be argued its insurance!

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 175)

As this borough does not have an airport, I am unable to comment. *On a personal note: I like to be dropped off/picked up by the same cab at airports – it is since 9/11 that airports have tightened security at terminals and many now only allow their own shuttle buses to service outlying car parks, ranks or pick-up points.*

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; (Page 178)
- (b) a non-exhaustive list of factors indicating plying for hire; and
- (c) appropriate accommodation of the legitimate activities of private hire vehicles. (Page 180)

Needs further consideration.

Provisional proposal 16

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

Any means of hailing or hiring of a taxi should be allowed and updated to new technology.

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)

It's the same thing!

Provisional proposal 18

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

Yes.

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)

PH's must be pre booked – 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)

Again, do not want London rules. Only a licensed driver should be driving that vehicle.

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)

Yes – provided from the outset that Taxis and PH vehicles are clearly defined.

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)

Cab is acceptable - I don't mind what PH's call themselves so long as it is not a TAXI.

A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

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

There is nothing wrong with a national standard, the MoT system works well enough but perhaps upgraded to a recognised specification (+ local variations) for licensed vehicles. I would, however, like to see the seat belt law satisfactorily resolved for children under 3 years.

Provisional proposal 25

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

11

As at 24 above, I would expect all licensed vehicles to achieve a higher standard though and not excluding London.

Provisional proposal 26

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

As above.

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)

Do not agree. PH drivers also work on radio circuits, have metered vehicles and fundamentally do the same work as taxi drivers. Only PH companies doing nothing but airport work could have an argument but our rural PH companies serve the small towns and outlying villages where district knowledge is essential.

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)

Signage should be up to the individual council but nationally all roof signs (bubbles) on PH's should be removed.

Question 29

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

Apart from the advertising aspect, both vehicles (and drivers) should be of the same standard.

Variations may apply depending on the type of vehicle used i.e. purpose built taxi not to be licensed or used for PH work. Also need to address tinted windows - ? ok PH but not HC ?

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)

As current system.

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)

As above.

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 on the members of the panel.

Provisional proposal 34

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

Yes, local authorities know their area better.

Question 35

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

12

Depends on what the limits are going to be.

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)

Would be good if we all worked to the same conditions.

Provisional proposal 38

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

As above.

Provisional proposal 39

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

Would be a good idea to have the option of creating timed zones at weekends or other pre-set times to prevent an influx of taxis in any one 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)

No, above option preferred.

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)

Adverts for PH companies already go outside of areas by way of newspapers and local radio, but I do not see a problem with an operator passing work outside of an area to another operator – something they cannot do at the moment.

Provisional proposal 42

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

Unofficially they (HC & PH on a radio circuit) already 'plot' out of area and take work as the nearest vehicle. Taxis should return to area.

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)

I agree on both counts.

Question 44

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

Generally no, but it depends what is involved in the journey and the pre-booking agreement.

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)

Should be (a), would also set medical conditions, driver ability (maybe criminal record).

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 not wanting to prevent a person from earning a living by owning licensed vehicles, the owner should not be an ‘unscrupulous’ 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? (Page 205)

Should be (a).

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, for the purpose of record keeping.

Provisional proposal 50

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

As above.

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)

Yes.

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)

14

Dealt with earlier – should retain restrictions where possible.

Question 55

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

We (Wyre) already have insufficient road space for extra ranks and we could not cope with extra taxis driving 'around the block' all day & night looking for a rank space. This would also have a detrimental effect on the air quality of certain areas, increased pollutants and could affect the health of residents in the areas where vehicles are cruising. More taxis would destroy an already fragile trade which has been in decline over previous years due to a number of factors. Local Authorities would also have to look at the resource implications that any increase in numbers could bring.

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 there is nothing wrong with more 'qualified' members of the trade appearing over time, there is and as above, nowhere for them to go.

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 and As above.

Question 58

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

(Page 217)

No reason why not but what are the - certain accessibility standards?

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)

Would the government be prepared to offer substantial financial incentives to proprietors when purchasing such vehicles i.e. Zero road tax, reduced fuel tax & lower insurance costs?

Provisional proposal 60

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

Agreed, no quotas.

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)

Yes.

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)

15

Would have to be made an offence otherwise it is not practicable to enforce.

REFORMING ENFORCEMENT

Question 64

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

Could be useful but sounds dangerous unless in a nationally recognised uniform.

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)

Don't know - Not a problem in this area.

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 extreme case such powers would be nice but would not be used on an average day-to-day basis.

Question 67

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

Yes, would be effective in respect of private motorists parked on taxi ranks.

Provisional proposal 68

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

Yes but would need some thinking about. I have though in the past come across notices handed to Wyre drivers by enforcement officers in other areas especially Liverpool.

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 the offence can be proved then let the Authority where the offence happened take the lead.

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 change.

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)

Would not be necessary if more specific guidelines from the government were issued in the first place (additional to circular 13/92).

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.

16

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).

THE LAW COMMISSION - REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

Background

In July 2011 the Law Commission agreed to undertake a law reform project on the law of taxis and Private Hire Vehicles (PHVs). The Department for Transport (DfT) proposed the project, but in such cases the Law Commission is independent of Government.

Consultation

On 10 May 2012 the Law Commission published its provisional proposals along with associated Questions. All parties have until 10 August 2012 to submit responses.

Proposals and Questions

What follows is a summary of the Law Commission's proposals.

Proposed future action

The Law Commission intends that its consultation will be its main information-gathering exercise. After the consultation, the Commission will analyse responses and reconsider this document's proposals. The Commission aims to produce a report containing its final proposals and a draft Bill by November 2013.

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.

Response:

The problem is that the legislation needs updating and greater consistency in standards needs to be achieved across the country.

It appears that most of the public understand that there is a distinction between vehicles in that they can pre-book or hail a vehicle, however there is general confusion of which type of vehicle is which. Members of the public are frequently witnessed trying to hail private hire vehicles.

It is accepted that a one-tier system would reduce customer confusion and possibly simplify enforcement.

However there could be initial problems moving to a one-tier system, this could potentially cause ranks to become overcrowded and existing hackney carriage drivers & proprietors to be disadvantaged by the new competition from the private hire trade. This would particularly be a concern in areas such as Cardiff where a limit is applied to the number of hackney carriage vehicles.

It is envisaged that a one tier system may be better suited for more rural areas, or could possibly be a provision that a local authority may wish to adopt.

PROVISIONAL PROPOSAL 2

London should be included, with appropriate modifications, within the scope of reform.

RESPONSE

Agree however the requirements in big cities can be very different to other area. If London is to continue to apply different standards to the rest of the country, consideration should be given for other cities to apply for special consideration/exemptions from the National picture.

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

QUESTION 4

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

RESPONSE

Disagree

There are many forms of transports currently being used for hire and reward that are not regulated by any sort of licensing regime.

It makes sense that local authorities have greater flexibility over the type of vehicle that can be licensed or exempted and would increase consumer choice.

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.

RESPONSE

Agree - however the licensing regimes should be closer aligned to ensure fairness and consistency e.g. PSV drivers should have CRBs

PROVISIONAL PROPOSAL 6

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

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.

RESPONSE

Agree

To avoid confusion it should be clear that any vehicle with 8 seats or less is licensed by the local authority

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

RESPONSE

Agree -although it can be difficult to establish who are 'genuine volunteers', especially if there is an element of profit from mileage claimed.

QUESTION 9

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

RESPONSE

Carpooling should not be regulated under the licensing regime as unnecessary legislation could potentially stand in the way of sustainable travel.

Members clubs should also be included in the licensing regime, and is a matter that has already been challenged in court.

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.

RESPONSE

Agree that where existing regulatory frameworks exist there is no need to duplicate controls in the licensing regime. However where alternative frameworks do not exist exemptions should not apply.

The licensing regime exists to ensure that the travelling public and transported in a safe vehicle by a "fit and proper" person, and this should be the case in all instances whether controlled by the taxi/PHV regime or an alternative framework.

Where there are no alternative controls, e.g. in the case of vehicles used for weddings, the hire of such vehicles should not be excluded in order to ensure the above.

PROVISIONAL PROPOSAL 11

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

RESPONSE

Agree - see 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 powers to set national standards?

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

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.

PROVISIONAL PROPOSAL 13

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

RESPONSE

Agree

At Cardiff we have private taxi ranks in a number of locations such as the train station and hospital. The fact that these are not on the 'street' has never caused us any problems by way of enforcement, or access although that's not to say the problem could not arise in the future.

A broader term such as 'public place' -meaning an area where the general public have access may be beneficial.

It appears to becoming more common that private land owners such as sports stadium owners, shopping centres enter into contracts with private hire firms or require hackney carriages to purchase a permit, and limit access to others. Although as stated we have not encountered any problems with enforcement or access.

This does however cause access/obstruction problems outside these areas and confusion to the public, but is beyond the licensing regime to address these private agreements.

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?

RESPONSE

As stated in the previous question, restrictions on taxi access to private land can lead to problems outside the area of obstruction and confusion for the public.

It would be beneficial for the requirements to extend to airports, however this could be difficult for some airports due to space and infrastructure. It is understandable therefore that some airports have a contract with one company in order to specify conditions of contract on levels of service. This is more of a commercial matter rather than a licensing one.

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.

RESPONSE

Agree

PROVISIONAL PROPOSAL 16

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

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”?

RESPONSE

Agree - however “public place” needs to be carefully defined.

PROVISIONAL PROPOSAL 18

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

RESPONSE

Agree - There is already a problem of drivers 'cherry-picking' fares which can lead to problems for the public. Continuing this concept would be beneficial.

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.

RESPONSE

Agree

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.

RESPONSE

Strongly Disagree - this would make enforcement more difficult for local authorities as difficult to prove/disprove social use.

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.

RESPONSE

Agree

There is a huge difference in standards across local authorities and statutory guidance would aid consistency. However the current DfT guidance is quite vague in areas and would need to be more specific if used as a basis for statutory guidance.

PROVISIONAL PROPOSAL 22

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

RESPONSE

Agree -however this would involve an element of cost initially to local authorities as vehicle plates, discs and forms would need to be changed.

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?

RESPONSE

Using such terms in advertising probably wouldn't lead to consumer confusion. Most consumers tend to use the term 'taxi' regardless of

whether it is a taxi or PHV, but understand the concept of pre-booking with a private company.

PROVISIONAL PROPOSAL 24

Taxi and private hire services should each be subject to national safety requirements.

RESPONSE

Strongly agree

There are currently huge difference in standards across local authorities; a national standard would promote consistency and reduce cross border hire problems.

PROVISIONAL PROPOSAL 25

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

RESPONSE

Agree

It should be possible for local authorities to apply additional criteria where necessary due to geographical differences.

PROVISIONAL PROPOSAL 26

National safety standards, as applied to private hire services, should be mandatory standards.

RESPONSE

Disagree -there should be no difference in the standards between taxis and PHVs as they are both used for transporting the public. (unless one tier applied)

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.

RESPONSE

Disagree

See Proposal 26

In Cardiff we issue a dual badge so would continue to require all drivers to have topographical knowledge in order to drive both types of vehicle.

Also a safety aspect to be considered as a driver who knows where they are going are likely to drive more safely/efficiently than one who is lost and has become distracted..

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?

RESPONSE

Agree

QUESTION 29

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

RESPONSE

It would depend on the level of the standard.

There should be no difference in the level of standard between taxis and PHVs as there is no difference in risk. Also it's important to remember that taxis undertake private hire work so the same standard should apply.

QUESTION 30

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

RESPONSE

No

The level of risk to both drivers is potentially the same and both are concerned with transporting the public in similar situations. Also, in Cardiff we allow drivers to have a dual badge so therefore the standard should be the same.

Local conditions also need to be considered as some areas may pose more risk than others. Perhaps allow local authority discretion to apply.

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.

RESPONSE

Agree

Local authorities should still have flexibility to set standards and conditions that are locally appropriate e.g. advertising, type of vehicles, vehicle appearance etc.

A national safety standard would improve the level of consistency across local authorities, and could perhaps be used to form a minimum vehicle testing standard (in addition to MOT). Without some form of testing standard to additional vehicle safety measures it would be difficult to enforce as licensing officers are not mechanically trained.

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.

RESPONSE

Agree

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?

RESPONSE

Through consultation with regional forums reporting to a technical advisory panel.

PROVISIONAL PROPOSAL 34

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

RESPONSE

Agree

QUESTION 35

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

RESPONSE

The differences between rural and city areas may warrant the need for different standards to be applied with regards to suitability of vehicles. Some standardisation of types, designs of vehicle etc may be advantageous in limiting cross border hire problems, however such standards should not be too limiting to ensure suitability in all areas. A certain amount of discretion should stay with local authorities.

QUESTION 36

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

RESPONSE

Yes

A uniformed approach to licensing conditions for taxi and PH drivers and operators is needed to improve consistency and reduce cross border hire problems. Many authorities currently issue dual badges so conditions would need to be the same for this continue. The issue of dual badges is favourable amongst the trade as provides flexibility e.g. if a driver's hackney carriage is off the road it allows them to do private hire work until it is repaired.

Currently the requirements differ greatly and drivers are more likely to apply to less stringent local authorities.

Having said that, as mentioned in Question 36 above there should be some flexibility to meet local issues which could differ greatly between rural and urban areas.

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?

RESPONSE

Best left to individual licensing authorities to make local arrangements.

PROVISIONAL PROPOSAL 38

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

RESPONSE

Agree - this could be useful in areas with similar geographical areas, and could save costs for local authorities and the taxi trade.

PROVISIONAL PROPOSAL 39

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

RESPONSE

Agree with abolition of zones

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?

RESPONSE

It would be useful in theory but would be a restrictive practice and very difficult to regulate and enforce, and could possibly confuse the public.

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.

RESPONSE

Disagree -will reduce accountability.

Could have situations where licenses issued in cheapest or least stringent authority but drivers work elsewhere. Could potentially cause enforcement costs to neighbouring authorities.

Also possible safety concerns due to less accountability. May be difficult to establish whether vehicle/driver correctly licensed if licensed by another authority.

The police sometimes ask for details of license holders when investigating crimes, this can involve a description of a vehicle but no licence/reg no. Establishing a licence holder could be increasingly difficult if more out of town vehicles present that the authority does not hold information on.

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.

RESPONSE

Disagree -this will encourage out of area taxis/PHV to ply for hire. This is already a problem and will increase burden on local authorities to control it.

This would also create difficulties with regards to fee setting as members of the taxi trade would seek to licence in the cheapest authority - National/regional fees would address this problem but may result in some local authorities not operating on a full cost recovery basis and unable to afford enforcement.

This could potentially increase the burden on authorities in terms of enforcement due to PHVs illegally plying for hire. This could lead to local authorities having increased enforcement costs but the problem would be created by vehicles licensed by other authorities, so they would not be receiving the funding for enforcement from the fees.

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.

RESPONSE

Agree -as fare prices are set as a combination of distance and waiting time, journeys covering the same distance can have different costs and journey times if in either a rural or urban environment. It is therefore important that the geographical area and type of environment is taken into when setting fares which should be done locally.

The Hackney Carriage rate should apply from the area in which they are licensed and should continue to the end of the journey even though this may finish outside the area of the authorities control. This would help alleviate extortionate rates being requested by HC drivers for out of town fares.

Private hire already set fares which due to competition are generally close to the taxi fares.

QUESTION 44

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

RESPONSE

No -we already receive numerous complaints that over inflated fares are being charged for out of town journeys. The taxi fares have been through a public consultation process and are considered fair so should apply. Taxis being required to retain details of pre-booked journeys would be beneficial and assist with enforcement and regulation.

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?

RESPONSE

a. Set out in primary legislation and the same basic standards across the county. Local authorities should retain discretion to decide whether an applicant is a "fit and proper" person based on local conditions, and additional standards may be applied if necessary.

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.

RESPONSE

Agree in principle as the safety of the vehicle is the paramount concern.

However certain offences should be taken into consideration when considering licensing an individual's vehicle. E.g. if an individual has previously been prosecuted for 'clocking' cars, money laundering and fraud, there could be some concerns of the legitimacy and roadworthiness of the vehicle.

QUESTION 47

Should national vehicle safety standards be either:

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

RESPONSE

a. Set in primary legislation

PROVISIONAL PROPOSAL 48

Operator licensing should be retained as mandatory in respect of PHVs.

RESPONSE

Agree

Taxi drivers also undertaking pre-booked journeys should also be required to keep records, this would aid investigation of complaints and provide protection for the driver.

The operator provides a point of contact for the customer and enforcement officers and would be useful to retain.

QUESTION 49

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

RESPONSE

Yes. Where a company controls the radio base and owns the vehicle, again this would facilitate enforcement.

PROVISIONAL PROPOSAL 50

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

RESPONSE

Disagree. The member of the public is placing the booking with that particular company and that company should be directly responsible and accountable for the completion of this contract.

QUESTION 51

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

RESPONSE

Agree -especially due to personal information operators obtain from customers.

PROVISIONAL PROPOSAL 52

Operators should be expressly permitted to sub-contract services.

RESPONSE

Disagree -See proposal 50.

QUESTION 53

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

RESPONSE

Agree -however may need regulation on how and when such bookings are made as would be dangerous to take whilst driving or unprofessional and breach confidentiality whilst passengers in vehicle.

PROVISIONAL PROPOSAL 54

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

RESPONSE

Disagree -if an authority undertakes a detailed survey which concludes there is no unmet demand the authority should be able to restrict numbers. This is currently the case in Cardiff and drivers often mention that due to the high number of taxis (although limit imposed) it is difficult to make a living.

There can only be certain amount of rank space available in areas and control and regulation of these areas can be time consuming and costly. Cardiff currently has problems in certain areas of taxis causing obstruction due to over ranking.

Removing the limit would cause unachievable demands on rank space and could lead to illegal parking/ranking which could have safety implications for other road users and would increase congestion.

Simply having more taxis does not mean that more taxis will be available when they are needed -which is recognised by the Law Commission report.

City authorities are always going to be attractive to taxi proprietors and problems associated with high numbers of vehicles is already evident - hence the current limit imposed in Cardiff.

It is currently difficult for local authority's deciding whether or not to impose a limit as there is conflicting advice from the Department for Transport and Office for Fair Trading. A clear line on this needs to come from central government.

QUESTION 55

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

RESPONSE

See proposal 54 - problems with large influx on numbers, issues with overcrowded ranks, obstruction, increased congestion, and drivers not able to earn a living. Also additional cost to local authority in terms of enforcement (licensing and civil parking)

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?

RESPONSE

Would be against quantity restrictions being removed, but if this was the case would need some staggered entry system such as only allowing a certain % of new vehicles per year for first couple of years to ensure market not flooded.

Would also need consistency of standards to ensure continued quality.

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.

RESPONSE

Agree in principle however if provisions of the Equality Act in relation to wheelchair accessible taxis were implemented it would solve some of the problems.

Also need to consider that not all wheelchair passengers like to use wheelchair accessible vehicles, some prefer to use standard saloons.

It would be difficult for local authorities to make provisions at ranks as there are many types of wheelchair accessible vehicles of varying sizes.

Some are side entry and some rear entry so could potentially take up a lot of space on the rank and there would also be the requirement to provide dropped curbs in these areas.

QUESTION 58

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

RESPONSE

To meet the all the needs of the general public it would be important to maintain a mixed fleet of vehicles. Licences fees must be set on a cost recovery basis so offering discounts may result in a shortfall of funds for the licensing authority.

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?

RESPONSE

As stated above, offering discounted fees could be problematic as fees should be set on a cost recovery basis. The cost of issuing a vehicle licence will be the same for any type of vehicle.

It is also unlikely that a reduction in a fee would be significant enough to assist in offsetting the cost of purchasing an accessible vehicle.

In discussion with Cardiff's Access Group, it's clear that customers with disabilities want a range of different vehicles available such as saloons rather than just wheelchair accessible vehicles. There are also different preferences when it comes to wheelchair accessible vehicles, not all wheelchairs can access certain wheelchair accessible vehicles.

PROVISIONAL PROPOSAL 60

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

RESPONSE

Agree quotas should not be applied.

PROVISIONAL PROPOSAL 61

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

RESPONSE

Agree

In Cardiff all drivers must undertake a Level 2 BTEC "Introduction to the Role of the Professional Taxi and Private Hire Driver" prior to the grant of their drivers licence. The BTEC includes a practical and theoretical module on dealing with passengers with disabilities.

The module has been widely welcomed by Cardiff Access Group as it appears that most drivers that have gone through the BTEC have a good understanding of the requirements of disabled customers.

It has been suggested by the Access Group however that refresher training could be beneficial due to changes in legislation and types of vehicles, wheelchairs etc.

Prior to the BTEC separate Disability Awareness Training was carried out by an external training provider at the Council once a month, which often had a waiting list. There are now numerous BTEC courses being run by the training providers in the city.

If disability awareness training becomes a requirement consideration would need to be given as to who provides this training and how often to ensure there is no delay in the issue of licences.

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.

RESPONSE

Agree

Consideration would need to be given as to where this information is to be displayed and whether it should be available in Braille.

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?

RESPONSE

An obligation to stop if available to hire should exist. However this would be very difficult to enforce as it could be difficult to prove the driver had actually seen the customer. There would need to be a 'reasonable grounds' defence based on safety.

Rank provision, public information and possibly hailing points can go some way in addressing the problem.

QUESTION 64

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

RESPONSE

Agree in principle.

At the moment licensing officers are reliant on resources from the police. There are often occasions which are busy in terms of taxi use e.g. when events are taking place in the city centre, but police officers are unable to assist. This means that on those occasions compliance checks are limited to taxi ranks and private hire vehicles are not subject to the frequency of checks.

Practically this could be very difficult. The police are usually in uniform when they stop a vehicle. It is unlikely a driver would stop for an un-uniformed officer.

There are also safety risks to be considered and possible training needs.

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)?

RESPONSE

We get very few complaints regarding touting and it doesn't appear to be a problem at present.

It could be difficult to deal with other than targeted exercises in areas where the licensing authority is aware there is a problem.

QUESTION 66

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

RESPONSE

It would be desirable to ensure that illegally operated vehicles are taken off the road. However practically this could be difficult and would depend on the resources of the local authority.

QUESTION 67

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

RESPONSE

Agree - would aide enforcement for prescribed offences. Could also reduce costs in terms of officer time and legal costs.

PROVISIONAL PROPOSAL 68

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

RESPONSE

Disagree - there could be discrepancies in the level of enforcement needed in certain areas e.g. city authorities may be attractive for out of town vehicles to illegally ply for hire. Licensing authorities are required to be self financing and may not receive sufficient funding for covering enforcement action against vehicles licensed by other authorities.

Also offences may include those committed by a driver, and enforcement of which cannot be raised by licence fees.

Authorities also wouldn't have immediate access to details of drivers/vehicles licensed by other authorities which could hamper an investigation.

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?

RESPONSE

Disagree -revocation, suspension should be dealt with by the home licensing authority.

As explained above, this could put a strain on resources for some local authorities.

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.
--

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 licensing authority to reconsider its decision.

RESPONSE

Disagree -once a licensing authority (usually a committee) has made its decision it is unlikely to make an alternative decision unless circumstances have changed. The appeal should remain with the Magistrates' Court.

PROVISIONAL PROPOSAL 72

Appeals should continue to be heard in the magistrates' court.

RESPONSE

Agree

QUESTION 73

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

RESPONSE

Agree

From: Battle (P) [REDACTED]
Sent: 05 September 2012 16:38
To: TPH
Cc: su@nafd.org.uk
Subject: Reforming the law of Taxi & Private Hire Services

Sir,

In response to the proposals to consider removing the exclusion of funeral vehicles (limousines) from the regulations on Private Hire and Taxi Licensing Regulations, as highlighted in the Funeral Director Monthly (September 2012), I wish to add my voice to the protest against this. Such a change would be inordinately expensive to accommodate within the funeral industry, especially for small firms. It seems clear that the circumstances where a limousine is requested, are significantly different to those for a Taxi or Private Hire vehicle.

The provision of a limousine to transport the bereaved family and friends to the farewell for their loved one is an adjunct to the funeral service itself; it relieves the burden of transportation at a particularly emotional and distressing time, whilst providing the necessary professional support of the experienced staff, and a proper association with the main funeral vehicle, be it motor hearse or horse-drawn, standard or unusual. For the majority, the matching nature of the funeral cortege vehicles is an important part of the whole arrangement, and of the image and memories of the day.

The cortege is inevitably under the control and direction of a Funeral Director whose role, in respect of the family, is to provide support and protection and ensure that all runs according to schedule. This is above and beyond the service expected from a normal 'private hire' operator, and as such precludes risk to the passengers, obviating the need for the CRB checking which would be appropriate to a solitary driver picking up his 'fare' at any time of day or night.

The additional costs arising would be an unmanageable burden on the funeral industry, and prevent us from providing the fullest service to our families. Will we face a future where a hearse is followed by some assortment of taxis, to the detriment of the image of the company, the family, and the last journey of their loved one? Please do all you can to prevent this proposed change!

Peter C Welch MBIE
Senior Funeral Director
F Jempson & Son
38 High St
Battle
East Sussex TN33 0EE

(Part of the Co-operative Group)

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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

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

Question 4

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

We have pedicabs licensed in Herefordshire, which have been very successful and enhance the night time economy. They undertake a number of shorter journeys which would otherwise be done by licensed vehicles. Therefore, we would not want to exclude them from the licensing 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. *(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)

There should be national safety standards and clear guidance issued to both 8 and under and larger capacity vehicles. Some are not being licensed by either the LA or VOSA and this is a public safety issue which needs urgent attention.

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)

Community service and any provider of transport should be subject to safety regulation both for the vehicles used and the drivers. Currently there is no requirement for public service or community transport drivers to be CRB checked.

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 not provided with a driver so this should be excluded. For members clubs and courtesy vehicles who provide a driver, it can be that they should be included in the licensing regime as this service can be a large part of their business. We would not support members only clubs who exist to act as taxi or private hire firms being exempt.

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)

Exclusions already exist and these should be further tightened up not relaxed.

Provisional proposal 11

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

I think they should continue to be exempt as they are much lower risk to the travelling public. The passengers are not travelling alone and the vehicles are of a specialist nature which do not travel the great mileages that taxis and PH vehicles undertake.

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 should not be reintroduced, the public safety risks are as high for persons travelling under contract than in any other situation. Passengers travelling whilst vulnerable and alone. Children often travel under contract and it is imperative that these vehicle fall within then licensing regime.

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)

I agree, private land where public have access should be included.

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)

I don't know as we have no airports so I don't have specialist knowledge.

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 way in which private hire vehicles are used has changed and needs definitive legislation. Clear standards need to be formalised to avoid unnecessary enforcement.

Provisional proposal 16

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

Don't know

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)

Yes

Provisional proposal 18

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

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)

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)

No. this compromises public safety and could allow un-licensed drivers the opportunity to undertake taxi or PH work. Enforcement would be very complicated and public safety is compromised.

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)

No

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

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)*

Minimum and mandatory

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)*

Agree

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)*

It should be a national minimum standard.

Question 29

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

Different authorities have different criteria and the standards differ greatly between areas.

Question 30

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

No the same standards should be applied to both, the risk is equal for both.

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)

Yes and should include Licensing Authorities and bodies representing them, as this consultation has.

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

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 was a national standard this would be unnecessary

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)

This is very difficult to enforce and would create a additional burden on the licensing authority. Drivers and vehicle proprietors would expect enforcement when drivers were abusing the system.

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 present system works well and protects the public by traceability of licence holders.

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. We are a large Unitary Council with a wide geographical area, some areas are disadvantaged because taxis cannot charge deal mileage and PH are not working in the area.

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)*

National 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)*

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)*

Primary legislation

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)*

No.

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)*

Yes to other licensed operators/vehicles/drivers

Question 53

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

No

CHAPTER 17 – 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)*

Numbers could increase, but market forces will stabilise the market over time.

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

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)*

Yes

Question 58

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

Yes, but only for exceptionally high standards ie, mechanical lifts.

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)*

Mandatory training with regard to accessibility

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 and it should be an offence not to pick them up, similar to refusing an assistance dog.

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)

Being able to charge for routine enforcement in the licence fees

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 providing we can include that in the licence fee

Question 67

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

Yes. Fixed penalties for plying for hire other than on a rank (illegal ranking), not wearing badge, displaying correct signage etc etc

Provisional proposal 68

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

Disagree.

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)

No

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. We have an Officer Panel with appeal to Sub-Reg Committee

Provisional proposal 72

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

Yes but only after proper consideration

Question 73

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

Yes. Taxi and PH legislation is very complex and sometimes it requires expert Judges to make decisions.



HOUSE OF COMMONS

LONDON SW1A 0AA

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

5th September 2012

Dear Sir or Madam,

Re: Law Commission Consultation Paper: Reforming the Law of Taxi and Private Hire Services

I am writing in response to the above named consultation paper published by the Law Commission and I attach my own submission to the consultation.

The consultation paper contains 73 well-thought out proposals and questions to form the basis of new legislation for the taxi and private hire industry. Given the age of the current legislation on taxis, this review and its proposals are particularly welcome.

My own submission to the consultation focuses on the Law Commission proposal for national minimum safety standards for taxis and private hire vehicles. Since a number of taxi-related assaults and a murder occurred in my constituency of Bedford over the winter of 2011-12, I have been particularly anxious to improve the safety of taxi drivers and their passengers. I called a debate in Parliament on this issue on 29th February 2012.

After researching possible methods to deter taxi-related crime and having consulted with local authorities and taxi drivers, it became apparent that the installation of CCTV would be a practical and effective step to protect drivers and passengers.

It is for this reason that I seek to expand on the Law Commission proposal for national minimum safety standards by proposing that one of these standards should be to have a suitable CCTV system installed.

I applaud the Law Commission on the work it has done so far in this review and I would encourage it to make its final suggestions for legislation as soon as possible. I have also sent a copy of this submission to the Secretary of State for Transport, as some of the recommendations may require secondary legislation in addition to any main Bill on taxi regulation.

Yours sincerely,

A handwritten signature in black ink that reads "Richard Fuller".

Richard Fuller MP

cc: The Rt Hon Patrick McLoughlin MP, Secretary of State for Transport

Member of Parliament for Bedford

Westminster: 020 7219 7012

Constituency: 01234 261487

Email: richard.fuller.mp@parliament.uk



CCTV in Private Hire Vehicles and Taxis

A submission to the Law Commission
Consultation on Reforming the Law of Taxi and
Private Hire Services

Richard Fuller MP
September 2012

CONTENTS

1. SUMMARY	3
2. CURRENT SITUATION	5
3. PROPOSAL	7
COSTS	7
<i>Funding: Who Pays?</i>	8
<i>Lease Arrangements</i>	9
PRIVACY CONCERNS	9
INDIRECT EFFECTS	11
4. EXAMPLES	14
DETAILS OF SCHEMES IN OPERATION	14
SELECTED RESPONSES TO COUNCIL SURVEY.....	17
5. THIRD PARTY VIEWS	22
6. APPENDICES	26
APPENDIX A	26
<i>Newspaper reports</i>	26
APPENDIX B.....	35
(i) <i>Freedom of Information Request to Bedfordshire Police</i>	35
(ii) <i>Freedom of Information Request to Greater Manchester Police</i>	37

CCTV in Private Hire Vehicles and Taxis – A submission to the Law Commission Consultation on Reforming the Law of Taxi and Private Hire Services

PROPOSAL

To make it a responsibility under the proposed national minimum safety standards that local licensing bodies require all private hire vehicles and hackney carriages to have a secure, encrypted CCTV system installed; that the recorded data be accessible only to the licensing authority and the police; and that the costs for the installation and operating of the CCTV systems be recovered, where possible, by an additional charge to passengers.

1. SUMMARY

The Law Commission's Review is a timely opportunity to revisit how the private hire and hackney carriage industries are regulated. The main legislation on the industry dates from 1847 and 1869, and since then has been added to by a multitude of national and local amendments. The Review makes a number of sensible suggestions to bring the regulation of the taxi industry into the 21st century.

The focus of this submission is driver and passenger safety and the Law Commission's recommendation that a set of national minimum safety standards (Provisional Proposal 24) be introduced. As the Consultation document points out, "people should be able to expect the same basic level of safety regardless of where they are"¹ and that "safety goes beyond passenger safety to include the safety of drivers."²

It is for these reasons – i.e. protecting both drivers and passengers across England and Wales – that this submission proposes one of the national minimum standards should be for all private hire vehicles and hackney carriages to be required to have a secure, encrypted CCTV system installed.

Local licensing officers would be responsible for ensuring compliance, as this would be most likely to ensure conformity with the standard; will align this safety standard with other licensing requirements at the point of vehicle registration; and will enable economies in the purchase and installation of CCTV equipment.

¹ Law Commission, *'Reforming the law of taxi and private hire services: A consultation'*, May 2012; p187

² Law Commission, *'Reforming the law of taxi and private hire services'*, p191

The cost of installing and operating the CCTV system should not fall on the individual driver or operator, but should, where possible, be recouped directly, or indirectly, via an increase in passenger fares. It is estimated that the per journey cost for installation and maintenance of CCTV safety systems will be between 5 pence and 10 pence.

This submission also recommends that local licensing authorities be required to offer a lease option to drivers and to taxi and private hire companies to spread the cost over the expected useful lifetime of the equipment as an alternative to a full upfront payment.

2. CURRENT SITUATION

In recent years, there have been many attacks on both private hire and hackney carriage (hereafter, 'taxi') drivers and passengers. Precise figures are hard to assess as details of the perpetrator and/or victim are rarely recorded. Research by the Department for Transport in 2008 concluded that, on average, 3 drivers were killed each year.³

A freedom of information request to Bedfordshire Police reported 93 assaults on drivers over a 12 month period.⁴ While a freedom of information request to Greater Manchester Police reported a total of 109 rapes or sexual assaults that were in some way related to taxis or private hire vehicles – also over a 12 month period.⁵

There is also a plethora of reports from local and regional news outlets about incidents in their areas covering both attacks on drivers and on passengers (for a selection of these reports, please see appendix A).

Action needs to be taken to improve the safety of taxi drivers and passengers, akin to the steps taken to protect the users and providers of other forms of public transport. It is common nowadays for buses, trains, trams, and underground trains to have CCTV systems installed. These systems serve both as a deterrent and as a tool to identify assailants.

Taxi and private hire drivers and passengers should not be treated as second class citizens when it comes to their safety.

Taxis are arguably even more in need of these protections than other public transport workers. Whereas other means of public transport usually carry additional passengers and make frequent stops, this is often not the case for taxis. Once a taxi is hired, the driver and the passenger each put trust in the other that they will arrive safely at the destination. This reduces the likelihood of third party witnesses to any incidents. CCTV would be able to provide that 'extra set of eyes' and deter potential attackers.

The *Bedfordshire on Sunday* newspaper responded to a spate of attacks on drivers earlier this year by launching its "Cabbie and Passenger Safety" campaign ("CaPS")⁶. The campaign has highlighted not only the dangers faced by taxi drivers and their passengers, but also confusion amongst law enforcement officers about the extent of their responsibilities to intervene in disputes between drivers and passengers.

³ Norman Baker MP, Parliamentary Under Secretary of State for Transport, '*Westminster Hall debate: Private Hire and Hackney Carriage Vehicles*', House of Commons Hansard, 29 February 2012, c403

⁴ A copy of the response to this Freedom of Information request is attached at Appendix B(i).

⁵ A copy of the response to this Freedom of Information request is attached at Appendix B(ii).

⁶ Further information on the CaPS campaign is available in Chapter 5: Third Party Views, and at: <http://www.bedfordshire-news.co.uk/News/BoS-Says-Why-mehars-death-has-to-be-the-last-19032012.htm>

Over the last few years, several local authorities have run schemes to install CCTV systems in the taxis licensed by their authority. Southampton City Council, and Brighton and Hove City Council have made CCTV a licensing requirement; while many other councils have drawn up a minimum set of standards should any of their drivers voluntarily wish to install a CCTV system.⁷ Clearly, with no current national legal requirement for CCTV, local authorities pursue different approaches to driver safety – as do the drivers themselves.

In order to gain a comprehensive picture of the current situation across the country for this submission, 300 councils in England and Wales were contacted and asked about the status of taxi CCTV in their area as well as any views they had on the installation of CCTV.⁸

246 councils responded (82%) and the research found that 57% of the councils that responded had some form of CCTV scheme in place in their area, primarily on a voluntary, not mandatory, basis. When asked for their views on installing CCTV in taxis, 62% of responding councils expressed support for the idea, while only 8% expressed opposition.⁹

Since the Law Commission is consulting on changes to the licensing regime and proposes a set of national minimum standards, it presents a perfect opportunity to include provision for CCTV systems to be made mandatory for all private hire vehicles and hackney carriages and for the licensing authority to hold the responsibility to implement the requirement and to act as the controller for the recorded data.

⁷ Further information on these schemes is available in Chapter 4: Examples on p14

⁸ County councils with no responsibility for taxi licensing were excluded as well as London councils, as the responsibility rests with Transport for London instead.

⁹ Full details of the research conducted can be found in Chapter 4: Examples on p14

3. PROPOSAL

Any mandatory minimum standard of CCTV system must have the confidence of the public, the drivers and the enforcement authorities. A guideline that simply required a camera system to be installed in taxi vehicles, allowing vehicle operators to install a system that was insecure and unencrypted affording no protection to the data it collected would arguably cause more harm than good.

The proposed minimum safety standard of CCTV must abide by the principal that the data recorded should be secure, encrypted, always on and only accessible to licensing and law enforcement authorities. It is a requirement to have what would be akin to the 'black box' flight recorder on airplanes, in that the data would only be accessed following an incident.

Making CCTV mandatory for all private hire vehicles and taxis in England and Wales will mean that all drivers and operators are operating on a level playing field. This would eliminate situations where one local authority might require CCTV while a neighbouring authority might not, causing resentment amongst drivers, and uncertain expectations amongst passengers.

A mandatory minimum standard would also show passengers and the public at large that the system was a recognised way of preventing and detecting crime, and not simply a case of a local authority being over-zealous in comparison to other local authorities.

While it would be up to the Secretary of State to define exactly what would be included in any of the national minimum safety standards, this submission suggests that the specifications for CCTV systems should include:

- Video and audio recording, including infra red lights for recording after dark
- 512kbps or greater video quality
- Encrypted DVR (Digital Video Recorder) with capacity for 28+ days data
- Physically secured DVR: bolted to vehicle and only accessibly by licensing authority and/or the police with a key
- Tamper-proof system from camera to DVR
- Data only viewable via password protected proprietary software
- Signage on the exterior and interior of the vehicle informing passengers that the system is always on and accessible only to enforcement agencies

Costs

Costs for the proposed national minimum safety standard would comprise four elements:

- Purchase of equipment
- Installation

- Maintenance, Repair and Replacement
- Compliance Monitoring

Secure CCTV systems are estimated to cost around £400-500 per unit with installation costs estimated at £50-£80 per vehicle. Maintenance costs are estimated at £100 per annum over an expected 4 year useful life for the equipment. Additional compliance monitoring costs have not been estimated.

The total cost therefore, excluding compliance monitoring, would be between £850 and £980 over a four year period, or between £210 and £240 per year. These costs are likely to be reduced significantly based on scale purchases of equipment and maintenance insurance.

Funding: Who Pays?

The cost for the CCTV system would be considerable for a private hire or taxi driver and might well be considered unfair as drivers of other public transport vehicles are not asked to pay the cost of their safety while at work.

In both the private hire and hackney carriage sectors, independent, licensed drivers operate alongside small and large operator networks. There is no simple way for the financial cost for CCTV systems to be placed on operator networks.

As the responsible body for licensing, local councils are a logical point for managing the funding for the CCTV systems but are unlikely to be keen to be the ultimate payer for these systems, especially in the current financial climate. Councils could use monies from various sources, for example safer neighbourhood schemes or Proceeds of Crime allocations, to fund the purchase and installation of the systems, but this may not be sustainable over time. However, by acting as the primary contractor for equipment and maintenance contract purchases (see below), local councils **are** an effective way to achieve desired economies.

The fairest method for recovering the cost for the CCTV system is to make an additional passenger charge. This is estimated at between 5 pence and 10 pence per fare. For regulated fares, this charge could be identified separately as part of the minimum hire charge, or could be factored in to the per mileage cost. However, most private hire fares are not regulated but set by market conditions. It is possible that some network operators may seek to 'absorb' the cost by recouping from their drivers directly. This is not considered to be a significant risk, but it is recommended that the Department for Transport consider providing guidelines if necessary.

Lease Arrangements

Whoever is ultimately responsible for the costs, it makes sense for councils to act as the primary contractor for CCTV equipment and for maintenance agreements. This will enable economies to be made from scale purchases and from administration efficiencies as well as benefits from councils' creditworthiness on any leasing arrangements.

It also makes sense for local authorities to retain ownership and control of the systems. Firstly, this allows them to remove the equipment if a taxi driver ceases to work as such, and secondly, it means that the local authority can be the 'data controller' for the purposes of the Data Protection Act.

Privacy Concerns

There are privacy concerns that have been raised about the operation of CCTV in taxis. It is a curiosity that this argument is made in relation to the taxi industry but not in relation to other forms of public transport. Buses, trains, etc have had CCTV installed for some years now with limited concern for privacy. People recognise these vehicles as public spaces.

To some extent this is not yet the case with taxis. People consider taxis to be private spaces and this feeling is reinforced in some vehicles by separating glass between the driver and passengers.

Other privacy concerns arise because a taxi CCTV system might be viewed as less secure and protected from tampering than a camera in a bus or train. Unfortunately, there have been some instances where footage taken by unsecured and unencrypted camera systems has made its way on to the internet.

Systems can be installed where the data is recorded onto an encrypted hard drive that is securely installed in the vehicle, but inaccessible to the driver or any third party. The licensing authority would hold the relevant keys and passwords to the system and footage could only be viewed via proprietary software available only to councils and the police.

When an incident takes place, the licensing authority or police can view the footage, but otherwise the data is just recorded, left unseen and then overwritten after a certain period of time.

Similarly, under the Data Protection Act, authorities are only allowed to view footage within the timescales indicated by the crime that has taken place – they cannot use any other footage from another date or time if it has not been reported. Furthermore, with date- and time-stamped recordings, there would be no need to 'trawl' through all the recorded data.

Other complaints have focused specifically on CCTV systems that also record audio. This was ostensibly the problem that Oxford Council ran up against when they considered mandatory CCTV, but there were in fact more substantial concerns about their proposed system.¹⁰

More seriously, the Information Commissioner served an Enforcement Notice on Southampton City Council on 23rd July 2012 to prevent them from requiring ‘always-on’ recording of audio in taxis.¹¹ The concern is that people would not want their conversations ‘overheard’.

The Information Commissioner’s judgement against Southampton City Council was based, in part, on the Commissioner’s view that:

“where personal data is recorded and stored for any period of time there is always the risk that it could be subject to unauthorised or unlawful access, disclosure or other processing that results in distress or even damage to individuals, notwithstanding any security measures that may have been taken by the data controller.”¹²

However, if a CCTV system is physically secured and the hard disk difficult to access; if the hard disk is encrypted and the data only readable through proprietary software from the manufacturer; and if the data is password protected so that only the local authority or the police can access it; then all this should be considered when weighing the safety of drivers and passengers against the recording of conversations.

Audio is an integral part of an effective system since it provides vital information about any incidents that occur. For example, a video may only show a passenger with a bemused expression, but the audio may reveal that the passenger was receiving a torrent of verbal abuse. Audio systems will also be useful in targeting the verbal abuse to which many taxi drivers are subject. There is much evidence that taxi drivers are subjected to extensive discriminatory and racist abuse while going about their business.¹³ The presence of an audio enabled CCTV system might well have the additional benefit of reducing or eliminating such verbal abuse.

Recording audio and video is not in and of itself a privacy concern. The concern is about who can see or hear the data recorded. If a CCTV system is not monitored – i.e. there is no one able to routinely view the recording, no one watching the footage in a control centre – and

¹⁰ The system was also to provide a monitor in the taxi that also showed advertisements. This led to concerns about who would be able to access the system.

¹¹ Information Commissioner, *Southampton City Council Enforcement Notice*, July 2012: http://www.ico.gov.uk/news/latest_news/2012/~media/documents/library/Data_Protection/Notices/southampton_cc_enforcement_notice_20120723.ashx

¹² Information Commissioner, *Southampton City Council Enforcement Notice*, July 2012

¹³ For example, see evidence obtained by the Doncaster TAXI SAFE Scheme: <http://www.popcenter.org/library/awards/goldstein/2011/11-17.pdf>

if it is both encrypted and physically secured so that recordings can only be viewed by an enforcement authority, then people are able to act as they wish in view of the recording equipment, as no one will listen to or view the recording unless an incident takes place, and in that case it will only be a licensing officer or the police.

Private hire drivers have also raised concerns about a system that is always recording in their car even if they are not 'on duty'. It may be that outside working hours, the car is the main family car and thus objections have been raised to being filmed all the time. However, this is again mitigated by the fact that the data is not viewed unless necessary. It is unlikely that if the private hire driver or a member of his family did something illegal or unethical while off duty they would report it to the licensing authority so that the recording could be viewed.

The Information Commissioner's CCTV Code of Practice, on which the Southampton Notice is based, was most recently revised in 2008. This edition acknowledged that:

"This code of practice replaces one first issued in 2000. Since then there have been advances in the way CCTV is used, the technology employed and the wider legal environment in which it operates. There have also been developments which may help achieve more privacy friendly ways of using CCTV."¹⁴

The technology and security of CCTV systems has continued to improve since then. The Government is now considering appointing a CCTV Commissioner and drawing up a new, updated Code of Practice. It would be sensible if this new Code takes into account the progress in CCTV security and recognises that recording data is not, in this case, itself the critical issue – the critical issue is how data is stored and accessed.

Indirect effects

The installation of secure CCTV systems also provides a number of additional benefits to taxi drivers, the public and law enforcement agencies.

In Doncaster, taxi drivers pressed the local authority and police force to pilot a CCTV scheme in their vehicles, because they felt that they were being frequently attacked and little was done to help. The scheme included some research of the situation before and after the CCTV systems were installed.¹⁵ Data showed that before installation, drivers were frequently subject to racial attacks that went unreported due to lack of confidence in the police taking action. After the installation of CCTV, the number of attacks went down and

¹⁴ Information Commissioner, *CCTV Specialist Guide*, 2008:
http://www.ico.gov.uk/for_the_public/topic_specific_guides/~media/documents/library/Data_Protection/Detailed_specialist_guides/ICO_CCTVFINAL_2301.ashx

¹⁵ Doncaster TAXI SAFE Scheme: <http://www.popcenter.org/library/awards/goldstein/2011/11-17.pdf>

the proportion of attacks that were reported went up, allowing the police to take action against offenders.

Clearly, the installation of CCTV made drivers much more confident that action would be taken if they reported attacks and they no longer felt that abuse was 'just part of the job'. In addition, the deterrent effect of CCTV was also clear – passengers were much less likely to abuse drivers if they knew they were much more likely to be prosecuted for it.

A further benefit of CCTV in taxis is to protect drivers from false insurance claims. Anecdotal reports from Manchester indicate that the previously high level of personal injury claims brought against taxi drivers has greatly reduced where CCTV is installed. CCTV provides drivers with evidence either that the incident did not occur, or that it was not the fault of the driver.

The capability to prove if an incident occurred and what exactly happened can also assist in reducing insurance premiums for taxi operators. Many of the CCTV systems on the market allow for several cameras to be in operation in the vehicle. Front-facing cameras especially can be crucial in demonstrating fault at accidents. Reduced insurance premiums can also help to cover the cost of installing the CCTV system.

CCTV in taxis can also help police in detecting crimes or locating individuals where the issue has nothing to do with the taxi itself. For example, the movements of missing people can be traced if it is thought they used a taxi. Furthermore, there are some instances of burglars using taxis to escape the location of their crime – CCTV can help to identify these perpetrators.

These days many taxi companies are contracted to provide transport for children and vulnerable adults where an escort is not always available. While drivers are usually CRB-checked, the provision of CCTV cameras in taxis can help to provide extra peace of mind to those responsible for the passengers and can lead to an increased amount of business for taxi companies.

Consideration is also needed on how this proposal would affect the chauffeur, executive and limousine hire services. The vast majority of these operators are covered by the private hire licensing regime and so operate under the same conditions. Many of the customers for these services are from the business world and frequently they are provided 'on account' to a company registered with the vehicle operator. The amount of data held on these customers and the nature of this part of the industry mean that these drivers and passengers are at less risk than those in taxis or private hire vehicles that carry the general public.

The executive vehicle hire trade is likely not to be keen to install CCTV as the lower risks they face provide less justification for the cost of installing CCTV. This proposal does not

seek to answer the question of whether or not to include executive hire vehicles; it would simply suggest that further consultation and debate needs to take place with this part of the industry.

4. EXAMPLES

Overview of Survey of Local Licensing Authorities and CCTV

Total contacted	30
	0
Total responses	24
	6
Response rate	82
	.0
	%
Total mandatory schemes	4
Total voluntary schemes	13
	5
here installations have taken place	65
here no info on people installing	71
Total none	10
	5
	56
% of responders with some kind of scheme	.5
	%
Total expressing opposition or lack of demand	19
	7.
% of responders expressing opposition or lack of demand	7
	%
Total expressing support	15
	2
	61
	.8
% of responders expressing support	%

Details of schemes in operation

Included below is information on some of the schemes currently in operation in England and Wales. The list is intended to provide an overview of the variety of different CCTV policies in operation across the country; it is by no means exhaustive.

	Type of scheme	Details
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<p>Herefordshire Council</p>	<p><i>Mandatory</i></p>	<p>From July 2012, it has been compulsory for all new hackney carriages to have CCTV installed. For existing hackney carriages it will be compulsory but phased in over 3 years.</p> <p>40 out of the total of 270 hackneys currently have CCTV installed.</p> <p>The scheme has the support of the local police and the local taxi association.</p>
<p>Brighton & Hove City Council</p>	<p><i>Mandatory</i></p>	<p>Since April 2012, all private hire vehicles and hackney carriages have been required to install CCTV to the Council's required specification.</p> <p>The requirement is enforced when a vehicle is presented for initial licensing or for a renewal vehicle licence.</p>
<p>Southampton City Council</p>	<p><i>Mandatory</i></p>	<p>Since 26th August 2009, it has been policy that all vehicles must be fitted with a digital taxi camera to the satisfaction of the council. The requirement was effective immediately on the grant of a new licence (other than by way of renewal) or on the replacement of a licensed vehicle.</p> <p>In July 2012, the Information Commissioner served an Enforcement Notice against Southampton City Council's policy that its taxi CCTV systems should have sound recordings. At the time of writing, the Council is appealing this Notice and in the meantime its taxi CCTV policy still applies.</p>
<p>Newport City Council</p>	<p><i>Mandatory in part</i></p>	<p>The Council has introduced a requirement for CCTV in hackney carriages where the proprietor seeks to licence the front passenger seats as part of the seating capacity for the vehicle.</p> <p>Other proprietors can install CCTV on a voluntary basis if it complies with the Council's standards.</p>
<p>Portsmouth City Council</p>	<p><i>Voluntary</i></p>	<p>The Council does not require CCTV to be installed but it is supportive of CCTV in principle to protect drivers and passengers. It has been discouraged from proceeding any further with CCTV because of the ICO Notice sent to Southampton City Council. It is awaiting the result of Southampton Council's appeal before deciding on any changes to its policy.</p>
<p>Crawley Borough Council</p>	<p><i>Voluntary but Council provides a minimum specification</i></p>	<p>The Council permits the installation of CCTV on the request of drivers, provided that it meets the specification defined by the Council.</p> <p>In 2009, the Council offered drivers the opportunity to have CCTV installed in their vehicles and the Council funded 50% of the cost. Three drivers took up the</p>

		Council's offer. The following year, the Council had £9,000 available and offered the trade 75% towards the cost of the CCTV. No drivers took up the offer and the money available was taken back by the Safety Partnership Group.
Sheffield City Council	<i>Voluntary but Council provides a minimum specification</i>	Since 2003, the Council has had a specification for CCTV that allows Licensees to install, as long as they have applied for consent to do this from the Licensing Section. Sheffield was one of the earliest councils to allow CCTV in its licensed vehicles.
East Hertfordshire District Council	<i>Voluntary but Council provides some grants and a minimum specification</i>	There has been a voluntary scheme with a subsidy from the Community Safety budget, which has provided for the installation of 23 CCTV systems. The vehicle proprietor signed a contract that they will install the system at their own expense in any replacement taxi vehicle, or to sell the system back to the council if they retire as a taxi driver. Currently, no further funds are available to install new systems.
South Gloucestershire Council	<i>Voluntary but Council provides some grants and a minimum specification</i>	If proprietors wish to have CCTV fitted, it must be in line with the Council's protocol. South Gloucestershire Council Licensing Authority has been able to procure funding through the 'Safer South Glos' initiative to enable ten vehicles to be fitted with CCTV and these will be fitted to vehicles whose owners have put their names forward. If demand exceeds systems, it will be decided on those that work within the night time economy first. This will bring the total number of vehicles fitted with CCTV (visual only, no sound) to twenty.
Eastbourne Borough Council	<i>Voluntary but Council provides some grants and a minimum specification</i>	Voluntary installation is permitted provided the system meets the Council's minimum specification. In addition, a grant of £150 is available towards purchase and installation of approved systems for vehicles that pick up passengers late at night in the town centre. Funding for the grants is from the Eastbourne Crime Reduction Partnership.
North East Lincolnshire Council	<i>Voluntary but no minimum specification required</i>	When a driver wishes to install CCTV they are asked to contact the Data Commissioner in the first instance and then when permission has been granted, the council requests to see proof of the system being registered. Drivers then apply in writing to the Council to display the appropriate signage.
Wigan Council	<i>Voluntary but no minimum</i>	The Council does recognise the usefulness, safety and security aspect of CCTV and so allows drivers to install

	<i>specification required</i>	on a voluntary basis. However, the Council does not issue any guidance regarding installation and operating CCTV. It is for the proprietors and their drivers to be responsible themselves.
Blackpool Council	<i>Voluntary scheme funded by the Council</i>	<p>Four years ago Blackpool Council Licensing Service began a scheme to equip 120 hackney and private hire vehicles with state of the art CCTV at no cost to the vehicle owner. (The Council licenses 256 hackney carriages and 350 private hire vehicles.)</p> <p>The vehicle owners have to insure the kit, have it serviced by the supplier annually, and pay to have it either removed or transferred to a replacement vehicle. The agreements run for 3 years.</p> <p>The scheme was expanded further by getting the operators of advertising screens to pay the Council and vehicle owners to have the screens in their vehicles. The Council received £350pa per vehicle for the first 2 yrs and the vehicle owner got the monies thereafter. This income was ploughed back into purchasing more CCTV systems. The recession has cut advertising budgets and advertising screens are no longer providing an income.</p>
North Dorset District Council	<i>No scheme; voluntary scheme with minimum standards being considered</i>	North Dorset is planning to introduce a policy that requires CCTV systems to meet certain standards. This is in reaction to the installation of a poor quality, insecure system in one licensed vehicle.
Amber Valley Borough Council	<i>None</i>	There is no requirement on drivers to install CCTV and no policy on voluntary installations. The subject of CCTV in vehicles has so far 'never arisen'.
East Staffordshire Borough Council	<i>None</i>	The Council does not feel there is a need for CCTV to be installed in taxis.

Selected responses to council survey

In their responses, a number of council licensing officers¹⁶ expressed detailed views about the installation of CCTV in taxis. A selection of these is included below.

Blackpool Council Senior Licensing Officer

Following the introduction of a Council-subsidised scheme to install CCTV, "police recorded incidents involving taxis dropped by 14% in the first year. The drivers love the protection and have countless

¹⁶ Permission was obtained from the licensing officers before including their comments. Please note that the views expressed do not necessarily reflect the views of the councils.

	tales of CCTV preventing absconding without payment etc as our system can listen as well as observe.”
Bournemouth Borough Council Licensing Officer	“As enforcement officers we would wish to see all vehicles fitted with approved and secure CCTV equipment as protection to drivers in cases of attack, robbery or false accusation and passengers in cases of attack, abuse, theft and overcharging.”
Bracknell Forest Borough Council Licensing Team Leader	“I think that CCTV is a good idea for licensed vehicles in that it would promote driver and passenger safety. However, the costs can be prohibitive and I feel the system may only be useful if it records sound as well as images.”
Broxbourne Borough Council Taxi Enforcement Officer	“CCTV is a good idea for [the] safety of driver[s] and passenger[s] of hackney and private hire vehicles but it would put a financial burden on owner/drivers to have to install and therefore [we] do not make it a requirement. If a number of systems could be designated for national usage and so making it financially more viable it could be introduced as a standard vehicle requirement with the forth coming [L]aw [C]ommission [R]eview.”
Burnley Borough Council Principal Licensing Officer	“Burnley Council gained approx. £30,000 funding circa 2004 to supply every hackney carriage with state of the art CCTV which included live monitoring, audio and video links to Chubb monitoring. It was an unmitigated disaster with drivers selling on their CCTV systems, failing to turn up to have equipment fitted, ‘losing’ cameras etc. The list of problems goes on. Needless to say, we are reticent at getting involved in the area of CCTV.”
Chelmsford City Council and Maldon District Council Principal Environmental Health Officer	“Generally, we can see no down side to this as long as the public are assured of their own right to privacy – in that CCTV images would not be shared or used inappropriately. In those limited number of vehicles where it has been installed, the anecdotal feedback is that the drivers and owners value it as helping to protect them – not only if there is the threat of physical harm but from the risk of their passengers leaving without payment. I also understand that, again anecdotally and in relation to a very limited number of vehicles, the public response has been favourable.”
Crawley Borough Council Licensing Officer	“I have tried to encourage drivers to install CCTV in their vehicles as it can safe guard them and their passengers. We had a private hire driver who was accused of sexual assault and charged. He appeared at Crown Court and was acquitted because the passenger had lied that the driver assaulted her. Despite this the driver still did not get CCTV to protect himself and his passengers.

	<p>"I think it should be compulsory [to install CCTV] as there are so many complaints from passengers and the trade, and without the CCTV you find it hard to get evidence. The drivers who have had CCTV installed have very rarely had anyone running off without paying because the CCTV is available in their vehicles. The one who did run off was caught because I supplied the footage to the police of the passenger."</p>
<p>East Hertfordshire Council Interim Licensing Manager</p>	<p>"We welcome, encourage, support, and where funds are available, subsidise in car security cameras for taxis. They have made a valuable contribution to detecting petty crime (e.g. making off without payment), and we know of at least one occasion where we believe a sexual assault was avoided after a male passenger became aware that an in car security camera was fitted."</p>
<p>Exeter City Council Principal Licensing Officer</p>	<p>"The deterrent factor and the potential for identifying any attacker of a lone taxi driver is matched by the potential for identifying any attacker of a member of the travelling public by a taxi driver. If this question is intended to inform the Law Commission then I think it would be more than reasonable to require CCTV in taxis and PH vehicles as a clear and unequivocal tool to ensure passenger and driver safety, one of the [C]ommission's targets I believe."</p>
<p>Forest of Dean District Council Senior Environmental Protection and Licensing Officer</p>	<p>"My view is that any system should have audio recording as well. This will enable any disputes to be easily resolved. Unfortunately a good system is quite expensive and could be an unreasonable additional expense for an operator in a small rural district where most of the work is actually pre-booked so the customer details are known."</p>
<p>Hull City Council Licensing Officer</p>	<p>"All taxis should have [CCTV] installed. This way both drivers and passengers will be covered in case of any allegations and secondly it will help with small claim road accidents"</p>
<p>King's Lynn & West Norfolk Borough Council Licensing Enforcement Officer</p>	<p>"We did carry out a survey in September 2010. We asked 250 vehicle licence holders whether they would be interested in having a CCTV system installed in their vehicles. We received 45 responses and of those 3 said Yes, 8 Maybe and 34 No. [Yet] the reason that we licence 'taxis' at all is for public safety. CCTV systems installed in all vehicles would only increase public safety for both the drivers and the passengers."</p>
<p>Luton Borough Council Principal Licensing Enforcement Officer</p>	<p>"[We] [w]ould support the installation of CCTV with audio in all licensed vehicles subject to strict protocols on retrieval of information by Police and local authorities. However you are no doubt aware of the recent advice from the Information Commissioner re the Data Protection Act implications on the use</p>

	the CCTV in vehicles and this may make it difficult to install in future.”
Newport City Council Senior Licensing Officer	“This authority would welcome legislation/guidance which would make CCTV compulsory in both hackney and private hire vehicles.”
North Dorset District Council Licensing Officer	“In North Dorset we do not have a requirement to have CCTV nor do we plan to. We are planning to introduce a policy that if they do want a system it must meet certain requirements, this is because we have seen one of our taxis with a system that falls short of the [I]nformation [C]ommissioner’s standards...”
Portsmouth City Council Licensing Officer	<p>“There has been political support in principle for the provision of cameras in licensed vehicles.</p> <p>“... cameras are now being voluntarily installed by the big "fleet" garages in Portsmouth to minimise massive increases in insurance costs for bogus [personal injury] ...</p> <p>“We do receive many complaints each year either about the passengers or the conduct of the drivers. Access to an encrypted CCTV hard drive would help solve 99% of such complaints with a minimum of fuss and would be a valuable enforcement tool for both ourselves and the Police.”</p>
Sheffield City Council Principal Licensing Officer	“We had a survey undertaken in Sheffield some years ago which [showed] that verbal and physical abuse of drivers who had the CCTV fitted was dramatically reduced by the presence of the systems.”
Stoke-on-Trent City Council Principal Licensing Officer	A local taxi company, which installed CCTV in its vehicles “had a considerable increase in fares and bookings when the information was publicised.”
Telford & Wrekin Council Public Protection Team Leader	“Although we have had some positive results and been able to supply CCTV footage to the police to assist with investigations, on the whole it is more trouble than it is worth. In our experience, drivers do not generally like CCTV in their vehicles unless they can have full control over when to use it and also have full control of the data.”
Warrington Borough Council Taxi Licensing Team Leader	CCTV is “an absolute must. It is on our wishlist but funding is an issue.”
Wyre Council Taxi Licensing & Enforcement Officer	“In 2001/2, this Council considered and agreed to the installation of CCTV cameras in licensed vehicles after substantial interest from the trade and system manufacturers. After the Council agreeing, the taxi trade then decided it was far too expensive at the time and

no-one proceeded.”

5. THIRD PARTY VIEWS

A draft version of this submission was shared with some third parties, including national taxi associations and campaigners for improved taxi safety. Some of the comments received in response are included below.

Chris Fuller

Chris Fuller is a retired police officer who has served in both the Metropolitan and Kent Police Forces. Chris has a great deal of experience of working with the taxi industry.

During his time with Kent Police, Chris served as Roads Policing/Traffic Officer attached to the North Kent Traffic Management Unit, with a remit that included taxi enforcement and drivers' safety.

Chris worked on several taxi safety initiatives during his time in the police. Along with a colleague, he set up 'CabWatch' – a working group and forum for the taxi trade, which both Licensing Authority representatives and drivers were free to attend. With the help of Community Liaison Officers, Chris sent out crime prevention leaflets and questionnaires to drivers.

Chris also set up 'Grab-a-Cab' in Dartford – a taxi marshalling scheme that is still in operation has a proven record in reducing violent crime and improving people's perception of crime in Dartford.

Before leaving the police, Chris served as Hackney & Private Hire Liaison Officer at North Kent Police Station. He has remained in contact with the taxi trade since his retirement.

Regarding the lack of clarity and understanding for police in knowing how to handle disputes between driver and passenger, Chris commented:

"The average patrol officer on a uniformed section does not possess any fit and proper working knowledge of taxi laws and would not know the Town & Police Clauses Act 1874 or any part of it. Disputes are mainly dealt with in two ways: 1) a 'civil dispute' where names and addresses are exchanged, much to the dissatisfaction of both driver and fare; or 2) a public order offence. This is because the officer(s) concerned can only generally get an allegation to fit this piece of legislation."

Chris also writes regarding the additional benefits that may be obtained through installing CCTV:

"In my dealings with the trade my findings were: drivers felt more secure and safe with CCTV; passengers intoxicated by alcohol would quickly change attitude when they realised there was CCTV in operation; crime – most importantly violent crime – was reduced; and false claims by passengers against the driver diminished and thus the driver concerned was not suspended and could carry on working instead of virtually being made unemployed by a false/malicious allegation.

"Insurance (vehicle) premiums could be reduced and, should this be made mandatory by the Law Commission, then insurance companies would all be competing to get taxi driver business and could result in drastic reductions in vehicle insurance."

Finally, Chris gave a police officer's view of the audio/no-audio debate:

"Audio recording for any prosecuting agent is a MUST as it completes offences, gives background evidence before a substantive offence is committed and also gives a good leaning on the demeanour of the offender."

Adam Thompson

Adam is a reporter on the regional weekly newspaper in Bedfordshire, the Bedfordshire on Sunday (BoS), and has been spearheading a local campaign to improve taxi safety – the Cabbie and Passenger Safety campaign (CaPS).

Adam has provided a summary of the work undertaken by the CaPS campaign and the conclusions it has reached on possible improvements to safety in the industry:

"Along with my colleagues Keeley Knowles, Kathryn Cain and Chris Gill we have done all we can to highlight a lack of protection for both passengers and cabbies in the PHV and taxi trade. It comes as a great relief that the laws dating back more than 200 years are finally being brought up to date.

"In March 2012, Bedfordshire on Sunday launched the Cabbie and Passenger Safety (CaPS) campaign following the death of PHV driver, Mehar Dhariwal, while working a late shift in Bedford and several other high profile criminal cases, which included one cabbie beaten by eight passengers while driving for simply asking for the fare upfront and another robbed of his takings by two customers.

"BoS declared enough was enough and gathered all interested parties around a table to have their views heard on how a culture of a lack of respect toward drivers and passengers that had crept into the trade could be changed.

"It was apparent from both PHV drivers and hackney carriage drivers that there was a lack of communication and understanding from the local authority and the police force about the need for improved safety and also the involvement that both bodies could take in protecting passengers and drivers.

"After hearing these concerns we met with the police, the council and a local initiative that funded taxi rank marshals to highlight drivers' views. During these meetings, several examples were given of police officers claiming that avoiding a

cab fare was 'a civil matter' and not a criminal one, including a very recent example from August 2012. In this case, a cab driver was robbed by two men. The driver gave a detailed description of the offenders, what address they went into and where they were picked up from (a street that is apparently monitored by CCTV).

"Despite this, the driver was told the fare the passengers had escaped from paying was 'a civil matter' and less than 24 hours after the incident he was issued with a letter saying officers had reviewed his case and there wasn't enough evidence to prosecute anyone.

"Following pressure from BoS the police issued an apology accepting that it was a criminal offence to avoid paying a cab fare and admitted the victim didn't receive the service he should have.

"As a result of these meetings, we put together a list of recommendations for how driver and passenger safety could be improved:

- *CCTV cameras and/or GPS panic alarms in each vehicle.*
- *Education and awareness for police officers on what their powers to prosecute are*
- *Better publicity from both the council and police that violence between driver and passengers won't be tolerated*
- *More prosecutions brought by the Crown Prosecution Service. Drivers highlighted how a person who avoids a train fare is much more likely to be punished than a person who avoids a cab fare.*
- *Communication between police, councils, PHV drivers and taxi cab drivers need to be clearer and more frequent.*

"Both Bedford Borough Council and Bedfordshire Police conceded that CCTV in every licensed vehicle would be difficult to achieve because of a lack of funds. However, the head of the local authority's licensing team admitted he would 'never drive a taxi without CCTV'.

"One way around the lack of funding was for taxi ranks to be linked to a radio system used by nightclub door staff which could aid PHV firms and Hackney Carriages to be alert for any potential trouble makers in town. Another was for drivers to take 'conflict resolution' courses to educate them on avoiding situations which could put them at danger.

"Since this meeting there have been mixed results in the trade. Weeks after we published the meetings' findings, a charitable donation was given to one cab firm of 40 CCTV to go into their cars. While it goes some way to supplying the more than 600 vehicles licensed by Bedford Borough Council it was a small victory for the CaPS campaign.

"Soon after this, the creators of a mobile phone application which allowed passengers to check into a cab online so that their friends/family could see it on social network sites had to scrap their scheme because they say there was 'a lack of support from local authorities' around the UK.

"It is examples like these which support Mr Fuller's point that PHV and Taxi drivers are treated as second class citizens."

Steve Wright MBE

Steve is Chairman of the Licensed Private Hire Car Association.

The LPHCA started as a representative body for Private Hire Operators only in London. They now work across the country and have their own 'grading scheme' for operators.

The LPHCA's aim is to promote and encourage high levels of service, safety and standards to provide the travelling public with a safe and reliable service in 'door to door' transport.

While generally supportive of the proposal, Steve also raised some concerns about how it would affect the chauffeur and executive hire industries. He commented:

"From the safety perspective this proposal sounds good, but there are people involved in the carriage of passengers for reward that are not at risk, neither are their passengers. That group is the Chauffeur/Executive part of the industry and those drivers who only undertake corporate work.

"The group of drivers that are at risk are those who take the general public rather than known corporate clients.

"It would be extremely costly to fit all taxis and PHV's when not all, especially pre booked PHV's have such a safety requirement."

David Toms

David Toms is Business Development Manager at Pageantry Electronic Systems and ACSS.

ACSS (Advanced Communication & Security Solutions) is a company specialising in mobile CCTV products for use in taxis, vans, fleet cars, lorries, buses, and coaches.

David was asked to comment on the suitability of the suggested type of CCTV system:

"I think that some of the public and drivers still have a perception of CCTV in taxis as an intrusion of privacy. From conversations with drivers and Taxi Trade bodies, this is because they feel that they are being constantly looked at by the local licensing authority. I have found, however, after many meetings and demonstrations of secure CCTV Systems that we have helped to allay their fears at least regarding the privacy issues, but they are still concerned with the cost."

6. APPENDICES

Appendix A

Newspaper reports

Included below are a random selection of newspapers reports from 2011 and 2012 regarding attacks on taxi drivers and passengers.

BBC News - Birmingham taxi driver attacked with hammer

BBC NEWS

BIRMINGHAM & BLACK COUNTRY

2 November 2011 Last updated at 08:01

Birmingham taxi driver attacked with hammer

A Birmingham taxi driver has been hit over the head with a claw hammer.

The 46-year-old was getting out of his private hire vehicle in Montague Road, Handsworth, when he was approached by a man who verbally abused him.

A second man approached the driver from behind and hit him with the hammer at about 22:25 GMT on Monday, police said.

The offenders left in a black VW Golf driven by a third man and the taxi driver needed five stitches to his head, West Midlands Police added.

The force said it appeared to be an unprovoked attack and described the offenders as three Asian men in their early 20s.

It said the man wielding the hammer was about 5ft 6in (1.7m) tall, with short black hair and a full beard.

The man with him was also described as being about 5ft 6in tall, thin and bald, with a thin moustache.

Anyone with information should contact West Midlands Police or call Crimestoppers anonymously.

Taxi driver jailed for Accrington sex attack on passenger (From Lancashire Telegraph)



Taxi driver jailed for Accrington sex attack on passenger

9:00pm Sunday 19th February 2012

By Wendy Barlow

A TAXI driver, who sexually assaulted a teenage girl, has been jailed for three and a half years.

Father-of-three Zameer Arshad, 26, of Richmond Hill Street, Accrington, collected the 17-year-old victim and her two friends after they had been on a night out in Clitheroe.

He dropped her friends at their home before driving the girl to an unknown address in Accrington where he sexually assaulted her.

He then abandoned her in a distressed state in the town centre following the attack on 9 October 2010.

Arshad had been convicted of sexual assault after a five day jury trial.

The defendant had denied the allegation and, the hearing was told, had sought to portray the victim as a promiscuous person who initiated sexual contact.

He was placed on the sex offenders' register for life and given a 15 year sexual offences prevention order after appearing at Burnley Crown Court.

Under the order, Arshad is prohibited from holding, applying for or obtaining a Hackney Carriage licence, from working as a Hackney Carriage or private hire driver and from working as a driver of any other means of public transport. He was also banned from working with children for life.

John Gibson, defending Arshad, said he felt the conviction and its consequences very greatly indeed. The barrister added: "The fall from grace is considerable."

Judge Beverley Lunt said: "This girl was very, very drunk indeed but that just made her more vulnerable and you took advantage of that."

Speaking after the hearing, DC Helen Mercer, from Accrington CID, said: "People trust taxi drivers to get them home safely and to abuse his position in this way is appalling.

"I would like to praise the girl for coming forward to the police and for her bravery throughout the trial."

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Watford taxi driver attacked and robbed (From Watford Observer)

Watford Observer

Watford taxi driver attacked and robbed

11:46am Friday 17th February 2012

By Mike Wright

A Watford taxi driver who was viciously attacked and robbed by three passengers has called for CCTV to be installed in the town's cabs.

Shakeel Ahmed said he feared for his life as he was set upon in the early hours of Sunday as he dropped off three men he had picked up outside Oceana in Watford.

The assailants made off with over £700 worth of valuables and equipment including Mr Ahmed's satnav and watch.

The 31-year-old said the ordeal had left him shaken and fearful of going back to work.

"I feared for my life," he said. "I have been back to work, but I was not happy. With every customer that sits behind you you are suspicious.

"When I leave the house I don't know if I am going to come back.

"They would not do it if there was CCTV in the taxi and there would be more chance of them being caught as well."

The Metropolitan Police is investigating the robbery, which happened in the Archway area of London around 3am on Sunday.

Officers said after Mr Ahmed had stopped in Merryweather Court, in Poynings Road, he was grabbed by one of them and beaten by another.

While he was being assaulted, police said a third suspect took his satnav and other items.

All three suspects then got out of the car and are believed to have run into Fell House.

Police carried out a search of the area but could find no trace of the suspects.

Mr Ahmed sustained a cut to his inner lip.

The suspects are described as three black men. Two of them were said to be aged between 23 and 25 and were both wearing black jackets.

The third suspect is described as wearing a white jacket.

Mr Ahmed's call for CCTV was backed by the Watford Hackney Carriage Driver's Association, which has been lobbying for cameras in cabs since last year.

The association has already had requests for Watford Borough Council to fund the scheme rejected.

Councillor Jan Brown, chairman of licensing at Watford Borough Council, said: "The council's

Watford taxi driver attacked and robbed (From Watford Observer)

specific role is to license taxis. We don't provide CCTV cameras to private businesses like taxis, in the same way that we don't pay for CCTV cameras in shops, offices or homes, for example."

However the association has been directed to the Safer Watford Partnership to apply for funding.

Shafiq Ahmed, the chairman of the Watford Hackney Carriage Drivers' Association, said attacks on taxi drivers were increasing as they are easy to isolate and criminals know they have cash and expensive items like satnav on them.

He said: "More and more attacks are happening and some are lucky to be alive.

"No one should go to work knowing it could happen to them."

Pilot taxi CCTV schemes have already been trialled in Southampton where the council introduced a license stating cabs had to have cameras installed.

The move has been opposed by privacy campaigners and some taxi firm owners.

Mr Ahmed added that if there was already CCTV on public transport such as trains and buses, he did not see there being a problem with it in taxis.

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Watford Observer

<http://www.watfordobserver.co.uk>

Click 2 Find Business Directory

http://www.watfordobserver.co.uk/trade_directory/

Man jailed for Morley taxi driver assault - Local - Morley Observer & Advertiser



You are here [News](#) > [Local](#)

Man jailed for Morley taxi driver assault

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Published on **Tuesday 4 October 2011 16:34**

A VIOLENT offender who hit a Morley taxi driver on the head with a rock in a row over a fare has been jailed.

Ricky Rayson, 29, carried out the attack in Beeston after being released from a sentence for robbery in which he walked around a supermarket threatening people with a hammer.

Prosecuting, Michael Greenhalgh told Leeds Crown Court that Rayson was picked up from Beeston at 11.30am on February 16 this year by Morley Cars driver Amir Kayum.

Rayson, of Trentham Close, Beeston, did not have any money to pay for the journey to Leeds city centre but agreed to leave his wallet and documentation with the driver and arranged to pay him later that day.

At 2.50pm, Rayson sent Mr Kayum a text message asking to meet him at a pub in Beeston so he could pay. Rayson gave £6 but was told he needed to pay £10.

He then took Mr Kayum to the home of his former girlfriend, but she refused to give any more money, saying Rayson had been overcharged.

Rayson then rang the police to complain and demanded the driver return his wallet and papers.

Mr Greenhalgh said the driver handed them over but Rayson continued to be aggressive and hit the car window with a bottle of alcohol he had been drinking from.

Rayson then ran off but the driver ran after him.

At this point, Rayson picked up a large rock and threatened to kill Mr Rayson before hitting him across the back of the head with it, causing cuts and bruising.

Rayson, who had taken amphetamines at the time of the attack, was arrested two days later.

He told officers: "I digged him and I will do it again. He should have given me my wallet. I hope he has got a scar."

Rayson pleaded guilty to wounding with intent, possessing an offensive weapon and breach of a restraining order.

Mr Greenhalgh said Rayson had previously been detained under the Mental Health Act after a robbery in which he threatened people with a hammer in the Iceland store in Burmantofts, east Leeds.

The court heard he also had convictions for attacks on hospital staff while he was detained.

Theresa Clark, mitigating, said Rayson had suffered a troubled childhood which had left him unable to cope in difficult situations.

His problems had been made worse by alcohol and drug abuse.

Jailing him for five years, Recorder Hirst said: "Taxi drivers are always vulnerable because they have to rely on people being law abiding."

Rayson replied: "Your honour, I thought he was taking the mickey out of me.

"I rang the police to get help and they knocked me back. What else do you do when he is chasing me around?"

Like

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0

Taxi driver attack left passenger with brain damage after he refused to chip in for fare, court hears - Runcorn and Widnes Weekly News

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Taxi driver attack left passenger with brain damage after he refused to chip in for fare, court hears

[Nov 7 2011 \(http://www.runcornandwidnesweeklynews.co.uk/runcorn-widnes-news/runcorn-widnes-local-news/2011/11/07/\)](http://www.runcornandwidnesweeklynews.co.uk/runcorn-widnes-news/runcorn-widnes-local-news/2011/11/07/) By Mark Smith

Chester Crown court



A CABBIE punched and kicked a passenger leaving him with brain damage after he refused to chip in for the taxi fare, a court heard.

Chester Crown Court was told today that Gary Whelan, of Laburnum Grove, Runcorn, punched Mark Clare on April 8 this year after dropping him off in Widnes, causing him to fall and fracture his skull, leaving him with brain damage.

Whelan, 43, denies charges of causing grievous bodily harm with intent and inflicting grievous bodily harm, and claims he acted in self defence.

The prosecution said the 39-year-old alleged victim had been out drinking on the night and

was sharing the cab home with four other people who he did not know, two men and two women.

But when one of the women was dropped off at her home in Hough Green, a drunken Mr Clare refused to contribute £1 taxi fare, got out, and started walking home in the wrong direction.

Taxi driver attack left passenger with brain damage after he refused to chip in for fare, court hears - Runcorn and Widnes Weekly News

Myles Wilson, prosecuting, said: "He (Whelan) said 'if he comes back I'm going to deck him'.

"Realising he was going the wrong way, he (Clare) turned around and walked back.

"The defendant got out of seat, approached and grabbed him.

"He punched Mark Clare and he fell back causing a fracture to the back of his skull."

Mr Wilson said one of the other passengers witnessed Whelan kick Mr Clare while he was unconscious, while two others saw him drag him away from his taxi before driving off.

He said Mr Clare's injuries were so severe at the time it was thought he might not survive, and that he had been left with 'severe brain injuries' for which he was still undergoing treatment and that he could still not remember the incident.

Following his arrest, Whelan told police that Mr Clare had assaulted him while he sat in his taxi, and that the punch had been in self defence.

He also claims he thought Clare was 'play acting' when he was unconscious.

Whelan denies the charges.

(Proceeding)

Send

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Romford Recorder



Romford cab driver attacked by passengers

Lee-Ann Richards , Reporter [mailto:Lee-ann.richards@archant.co.uk] Tuesday, February 14, 2012
10.25 AM

A terrified Romford cab driver is recovering after he was beaten up, threatened with a knife and robbed of more than £600 by three passengers.

Jakaria Ahmed, who works for A1 Cabs based in South Street, Romford was subjected to the terrifying ordeal on January 27 at around 2.40am in Gay Gardens, Dagenham.

He said: "It was very scary and it has left me very shaken."

The 32-year-old from Canary Wharf picked up the three men from his office in Romford in the early hours of the morning.

He says that he was told to take them to Eastbrook Road, Dagenham but on the way they changed the destination.

As he was about to drop them off, the men turned on him, threatening him with a knife before forcing him to hand over all his money.

The crooks made off with £150 of his takings from the night, £500 of his personal money, a mobile phone and a satellite navigation system.

He was found on the road by a member of the public who called the police and the ambulance.

Jakaria, who has still not returned to work after the attack, was left with a black eye and a broken nose, he also needed stitches on his face.

He is now appealing for help to track down the men.

The three suspects are described as white men aged 20-30 years.

Two were slim built and another is described as medium build.

Jakaria said: "The police still have not found these men, but I think they need to catch them before they do the same thing to someone else."

A spokesman for the police said: "I can confirm that police are investigating the robbery that took place in Gay Gardens, Dagenham at 2.40am."

Taxi driver attacked in bid to avoid fare (From Milford Mercury)



Taxi driver attacked in bid to avoid fare

8:40am Monday 31st October 2011

A Milford Haven man, who smashed a taxi window and attacked the driver to dodge paying the fare, has been given 18 months of community work.

Anthony Thomas, aged 22, of Great North Road, was arrested after smashing a taxi window and assaulting the driver to avoid paying the £71 fare that his girlfriend's sister clocked up.

Thomas was pressured into doing whatever it took to get his girlfriend's sister out of Milford Haven, where she was involved in a violent argument, the court was told.

David Weale, prosecuting, said that Thomas ordered a taxi to Neyland, armed himself with a piece of wood to frighten the driver, but decided to smash the window.

He said: "Mr Thomas had no intention of paying the fare, so he turned to criminal damage, and armed himself with a weapon."

Jon Tarrant, defending, said the incident outlined an extreme reaction by Thomas.

He said: "When I asked him why he had done it, he just put his head in his hands.

"There are possible imbalances in the way he judges his relationships, he almost feels like he is trying too hard, or that if he doesn't do what he's told, his relationship will fail.

"Mr Thomas' partner was screaming and hysterical, because she felt that something bad was going to happen to her sister.

"The majority of people would have dealt with the situation, and wouldn't have taken that extra step.

"There is something in Mr Thomas' psyche that prompted him to act in the manner that he did."

Thomas pleaded guilty to assault by beating and to causing criminal damage.

He was given an 18-month community order, including 18 months of community supervision and thinking skills programme, by magistrates.

Magistrates also ordered him to compensate the taxi driver £200 for his vehicle and £100 for his injuries, and pay £60 costs.

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Appendix B

(i) Freedom of Information Request to Bedfordshire Police



13 February 2012

Our Ref: 2012/00141

Dear Member of the Public,

REQUEST UNDER THE FREEDOM OF INFORMATION ACT Reference No F-2012-00141

I write in connection with your request for information received on 30th January 2012. I note you seek access to the following information:

The number of assaults on taxi drivers in Bedford Borough from January 30 2011 to January 29 2012.

Can this be broken down into month by month figures and is it possible to get a number for how many people were convicted following the assaults

In response to your questions, I have today decided to release the information requested in full as I can see no harm to any individual, the community, the police service or other bodies. After considering whether releasing this information will affect the good order and functioning of community, government or other public service affairs, I believe it is in the public's interest the information be released. The information lies within the arena of public safety and may provide common benefit to members of the community. Releasing this information will not identify any individual or compromise any court case, law enforcement or investigation.

With reference to your recent enquiry and in response to your questions I can confirm the following:

Response – For details relating to the number of assaults on taxi drivers in Bedfordshire between 30th January 2011 and 29 January 2012, please refer to the attached table:

File Attached – [Annex A 2012-00141.pdf](#)

CHG	CHG	CHG
CHG	CHG	CHG
CHG	CHG	CHG
CHG	CHG	CHG

Number of Assaults on Taxi Drivers between [30.01.2011 and 29.01.2012] by month.

OFFENCE DESCRIPTION	2011												2012	Grand Total												
	FEB		MAR		APR		MAY		JUN		JUL				AUG		SEP		OCT		NOV		DEC			
	CHG	UND	CHG	UND	CHG	UND	CHG	UND	CHG	UND	CHG	UND			CHG	UND	CHG	UND	CHG	UND	CHG	UND	CHG	UND		
§5- grievous bodily harm (serious harm) without intent (s20)																										
§50 MALICIOUS WOUNDING (s20)																										
ASSAULT OCCASIONING ACTUAL BODILY HARM (s41)	4	3	4	4			2	2	1	2									3	3	1	3				
COMMON ASSAULT	2	1	2	2			1	2	1	1									3	3	2	28				
DANGEROUS DOG INJURE PERSON - PUBLIC PLACE														1								1				
HARASSMENT - (s74A SECTION 44) PUTTING PEOPLE IN FEAR OF VIOLENCE							1															1				
NUMBER PERSONS AGED 1 YEAR AND OVER																										
PUBLIC ORDER - CAUSE INTENTIONAL HARASSMENT, ALARM OR DISTRESS FROM 1998 S. 44A																						1				
PUBLIC ORDER - FEAR OR PROVOCATION OF VIOLENCE FROM 1998 S. 41					1		1															2				
PUBLIC ORDER - HARASSMENT ALARM OR DISTRESS FROM 1998 S. 31	1																					4				
PAROXY OF RELIGIOUSLY AGGRAVATED ASSAULT OR ASSAULT OCCASIONING ACTUAL BODILY HARM. (s42 ACT 1998 S. 29(1)(B)(2)			1																			4				
PAROXY OF RELIGIOUSLY AGGRAVATED COMMON ASSAULT OR BEATING (s42 ACT 1998 S. 29(1)(C)(3)	2																					2				
PAROXY OF RELIGIOUSLY AGGRAVATED FEAR OR PROVOCATION OF VIOLENCE SECTION 31(1)(A)							1															1				
PAROXY OF RELIGIOUSLY AGGRAVATED HARASSMENT (s40 ACT 1998 S. 29(1)(A)(3)									1													1				
PAROXY OF RELIGIOUSLY AGGRAVATED INTENTIONAL HARASSMENT, ALARM OR DISTRESS SECTION 31(1)(B)	1																					1				
PAROXY OF RELIGIOUSLY AGGRAVATED PUT PEOPLE IN FEAR OF VIOLENCE S. 31(1)(B)(4)																						1				
THREATS TO KILL												1										1				
Grand Total	1	1	9	5	1	7	1	1	7	2	5	1	2	2	2	2	2	3	1	1	5	6	1	2	9	25

OFFENCE DESCRIPTION	2011		Grand Total
	CHG	UND	
§5- grievous bodily harm (serious harm) without intent (s20)			
§50 MALICIOUS WOUNDING (s20)			
ASSAULT OCCASIONING ACTUAL BODILY HARM (s41)	4	3	7
COMMON ASSAULT	2	1	3
DANGEROUS DOG INJURE PERSON - PUBLIC PLACE			
HARASSMENT - (s74A SECTION 44) PUTTING PEOPLE IN FEAR OF VIOLENCE	1	1	2
NUMBER PERSONS AGED 1 YEAR AND OVER			
PUBLIC ORDER - CAUSE INTENTIONAL HARASSMENT, ALARM OR DISTRESS FROM 1998 S. 44A			
PUBLIC ORDER - FEAR OR PROVOCATION OF VIOLENCE FROM 1998 S. 41	1	1	2
PUBLIC ORDER - HARASSMENT ALARM OR DISTRESS FROM 1998 S. 31			
PAROXY OF RELIGIOUSLY AGGRAVATED ASSAULT OR ASSAULT OCCASIONING ACTUAL BODILY HARM. (s42 ACT 1998 S. 29(1)(B)(2)			
PAROXY OF RELIGIOUSLY AGGRAVATED COMMON ASSAULT OR BEATING (s42 ACT 1998 S. 29(1)(C)(3)			
PAROXY OF RELIGIOUSLY AGGRAVATED FEAR OR PROVOCATION OF VIOLENCE SECTION 31(1)(A)	1	1	2
PAROXY OF RELIGIOUSLY AGGRAVATED HARASSMENT (s40 ACT 1998 S. 29(1)(A)(3)			
PAROXY OF RELIGIOUSLY AGGRAVATED INTENTIONAL HARASSMENT, ALARM OR DISTRESS SECTION 31(1)(B)	1		1
PAROXY OF RELIGIOUSLY AGGRAVATED PUT PEOPLE IN FEAR OF VIOLENCE S. 31(1)(B)(4)			
THREATS TO KILL			
Grand Total	2	5	7

(ii) Freedom of Information Request to Greater Manchester Police

**Information Governance Unit
Information Services Branch**

Mr Les Reid

Our ref: 000411/12/

When calling or telephoning
please ask for Amanda Ratcliffe

21st February 2012

Dear Mr Reid

FREEDOM OF INFORMATION REQUEST REFERENCE NO: 000411/12

I write in connection with your request for information dated 26/01/2012, which was received by Greater Manchester Police on 26/01/2012. I note you seek access to the following information:

- Can you please tell me the number of sexual assaults and rapes reported in your area in the last calendar year, which appear to be Taxi and Private hire car related..

Following receipt of your request searches were conducted within Greater Manchester Police to locate information relevant to your request. I can confirm that the information you have requested is held by Greater Manchester Police.

The number of rape and sexual assault offences that have had taxi or private hire car links across Greater Manchester in the year 2011 is 109.

However, please note that the figure relate to crimes committed for the time period of 1st January 2011 to 31st December 2011 and relate to the following Home Office Codes:-

017/13	Sexual Assault on a Male aged 13 and over
017/14	Sexual Assault on a Male Child under 13
017/15	Sexual Assault on a Male aged 13 and over
017/16	Sexual Assault on a Male Child under 13
019/02	Rape of a Female
019/03	Rape of a Female
019/04	Rape of a Female
019/05	Rape
019/06	Rape
019/07	Rape of a Female Child under 16
019/08	Rape of a Female aged 16 and over
019/09	Rape of a Male Child under 16
019/10	Rape of a Male aged 16 and over
019/11	Rape of a Female Child under 16
019/12	Rape of a Female aged 16 and over
019/13	Rape of a Male Child under 16
019/14	Rape of a Male aged 16 and over

Information Governance Unit, Information Services Branch, Greater Manchester Police,
Openshaw Complex, Lawton Street, Manchester M11 2NS
Tel: 0161 856 2529/2668, Fax: 0161 856 2535, Minicom: 0161 872 6633,
Email: freedomofinformation@gmp.police.uk

019/16	Rape of a Female Child under 13
019/17	Rape of a Male Child under 13
019/18	Rape of a Female Child under 13
019/19	Rape of a Male Child under 13
020/03	Sexual Assault on a Female aged 13 or over
020/04	Sexual Assault on a Female Child under 13
020/05	Sexual Assault on a Female aged 13 or over
020/06	Sexual Assault on a Female Child under 13

The figure obtained was done on a key word search of the modus operandi text field to identify words including 'taxi,' 'hackney,' 'private hire,' 'cab' and 'driver' has been carried out to identify relevant offences in the above list of offences. As a result, some offences may be included which contain one or more of the key words, but may not have direct links to taxis or private hire vehicles. For example, a rape or sexual assault may have occurred at a property and the offender or victim may have used a taxi to attend and/or leave the scene of the offence.

Offences where the term 'Driver' is included but no reference to any other key word have been removed to discount offences where the driver may be in a personal vehicle or a form of public transport (e.g. bus).

Complaint Rights

Your attention is drawn to the attached sheet, which details your right of complaint.

Should you have any further inquiries concerning this matter, please write or contact Amanda Ratcliffe, on telephone number 0161 856 2529 quoting the reference number above.

Yours sincerely,

Amanda Ratcliffe
Information Access Officer

Information Governance Unit, Information Services Branch, Greater Manchester Police,

From: stephen.blundell [REDACTED]
Sent: 05 September 2012 18:00
To: TPH
Subject: Consultation Paper No 203
Dear Sirs

I am writing in response to your consultations into the taxi and private hire trade.

Having read your 73 proposals my answers are as follows:

1. Agree with retaining two tier system.
2. Agree to London being included, with modifications.
3. No vehicle type restriction - onus on Local Authority.
4. Agree with restricting vehicles to those that require a driving license.
5. Agree with excluding PSV and including vehicles seating up to 8 passengers.
6. Non-committal about references to stage coaches.
7. Disagree with statutory guidance about novelty vehicles.
8. Disagree with excluding volunteers from legislation.
9. Disagree with including (a) car pooling and (b) members clubs.
10. Disagree with making exclusions to national standards.
11. Agree that weddings and funerals should no longer be excluded.
12. Disagree with reintroducing the contract exemption.
13. Disagree, keep scope of engaging with public to "streets".
14. No special provision in respect of regulation at airports.
15. Agree with "plying for hire" being placed on a statutory footing.
16. Disagree that hailing and ranking should not cover technological means.
17. No advantages in adopting the Scottish approach to defining taxis.
18. Agree that the concept of compellability should be retained.
19. Agree that pre-booking is required for private hire vehicle.
20. Agree that non-professional use should be permitted.
21. No, Ministers should not have the power to issue statutory guidance.
22. No, should not refer to "hackney carriages" as "taxis".
23. No, private hire vehicles should not use terms such as "taxi" or "cab".
24. Yes to national safety requirements.
25. Yes, national safety standards should be minimum standards.
26. Yes, national safety standards should be mandatory.
27. Disagree, knowledge is a safety concern.
28. Agree with local standards for signage, but restrict top signs to hackneys. All vehicles not engaged in contract work should have metered fares fixed by Local Authority.
29. No practical obstacles to common national safety standards.
30. No difference in safety standards between hackney and private hire.
31. Yes, the powers of Ministers to set standards should only relate to safety.
32. Yes, the powers of Ministers should be subject to statutory consultation.
33. Yes, a statutory requirement to refer to a technical advisory panel.
34. Yes, licensing authorities should retain the power to raise standards.
35. Yes, statutory limits to licensing authorities' ability to set local standards.
36. Yes, licensing authorities retain the power to impose conditions.
37. No, cooperation between licensing authorities is best left to local arrangements.
38. No combining of local areas for the purposes of taxi standard setting.
39. No, licensing authorities should not have an option on taxi zones.
40. No peak time licences.
41. No, keep restrictions on private hire operators to their locality.
42. Disagree, vehicles should return to their area.
43. Local authorities should regulate maximum fares in all vehicles.
44. Yes, there might be out of town fees for parking and congestion charges.
45. National driver safety standards should be set out in primary legislation.
46. Disagree, the First Proprietor should be subject to "fit and proper" tests.
47. National vehicle safety standards should be set out in primary legislation.
48. Yes, operator licensing should be mandatory for private hire vehicles.
49. No, operator licensing not extended to cover taxi radio circuits.

50. Agree, the definition of operators not extended to include intermediaries.
51. Yes, the "fit and proper" criteria in respect of operators retained.
52. No, operators should not be expressly permitted to sub-contract services.
53. No to keeping records of journeys pre-booked with hackneys.
54. Disagree, licensing authorities should retain the power to limit numbers.
55. In Cambridge the licensing authority stopped restricting numbers, and it lead directly to over-ranking, pollution, congestion, and drivers working longer and unsafe hours.
56. No removal of quantity restrictions.
57. (1) No, all customers have equal priority. (2) No, the requirement already exists.
58. No, there should be no reduced license fee for accessible vehicles.
59. The differing needs of passengers can only be met by providing a range of vehicle types.
60. Agree with no national quotas of wheelchair accessible vehicles.
61. Agree that all drivers should have disability awareness training.
62. Agree with displaying information about complaint procedures.
63. No, the obligation to stop for any customer already exists.
64. Yes, licensing officers should have the power to stop vehicles.
65. Better signage on private hires and better enforcement along with greater public awareness.
66. No, it is impractical to introduce powers to impound vehicles.
67. No, licensing authorities should not use fixed penalty schemes.
68. Yes, but this does not imply agreement with mixing licenses from different authorities.
69. No, only the issuing authority should have the power to suspend or revoke a license.
70. No, the right to appeal should not be limited to the applicant or license holder.
71. Yes, a first appeal should require the licensing authority to reconsider.
72. Yes, appeals should continue to be heard in the magistrates' court.
73. Yes, there should be an onward right of appeal to the Crown Court.

Yours faithfully,
Stephen Blundell

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From: philippaulcarter [REDACTED]
Sent: 05 September 2012 19:04
To: TPH
Subject: Taxi

Dear Sirs

I am writing in response to your consultations into the taxi and private hire trade.

Having read your 73 proposals my answers are as follows:

1. Agree with retaining two tier system.
2. Agree to London being included, with modifications.
3. No vehicle type restriction - onus on Local Authority.
4. Agree with restricting vehicles to those that require a driving license.
5. Agree with excluding PSV and including vehicles seating up to 8 passengers.
6. Non-committal about references to stage coaches.
7. Disagree with statutory guidance about novelty vehicles.
8. Disagree with excluding volunteers from legislation.
9. Disagree with including (a) car pooling and (b) members clubs.
10. Disagree with making exclusions to national standards.
11. Agree that weddings and funerals should no longer be excluded.
12. Disagree with reintroducing the contract exemption.
13. Disagree, keep scope of engaging with public to "streets".
14. No special provision in respect of regulation at airports.
15. Agree with "plying for hire" being placed on a statutory footing.
16. Disagree that hailing and ranking should not cover technological means.
17. No advantages in adopting the Scottish approach to defining taxis.
18. Agree that the concept of compellability should be retained.
19. Agree that pre-booking is required for private hire vehicle.
20. Agree that non-professional use should be permitted.
21. No, Ministers should not have the power to issue statutory guidance.
22. No, should not refer to "hackney carriages" as "taxis".
23. No, private hire vehicles should not use terms such as "taxi" or "cab".
24. Yes to national safety requirements.
25. Yes, national safety standards should be minimum standards.
26. Yes, national safety standards should be mandatory.
27. Disagree, knowledge is a safety concern.
28. Agree with local standards for signage, but restrict top signs to hackneys. All vehicles not engaged in contract work should have metered fares fixed by Local Authority.
29. No practical obstacles to common national safety standards.
30. No difference in safety standards between hackney and private hire.
31. Yes, the powers of Ministers to set standards should only relate to safety.
32. Yes, the powers of Ministers should be subject to statutory consultation.
33. Yes, a statutory requirement to refer to a technical advisory panel.
34. Yes, licensing authorities should retain the power to raise standards.
35. Yes, statutory limits to licensing authorities' ability to set local standards.
36. Yes, licensing authorities retain the power to impose conditions.
37. No, cooperation between licensing authorities is best left to local arrangements.
38. No combining of local areas for the purposes of taxi standard setting.
39. No, licensing authorities should not have an option on taxi zones.
40. No peak time licences.
41. No, keep restrictions on private hire operators to their locality.
42. Disagree, vehicles should return to their area.
43. Local authorities should regulate maximum fares in all vehicles.

44. Yes, there might be out of town fees for parking and congestion charges.
45. National driver safety standards should be set out in primary legislation.
46. Disagree, the First Proprietor should be subject to "fit and proper" tests.
47. National vehicle safety standards should be set out in primary legislation.
48. Yes, operator licensing should be mandatory for private hire vehicles.
49. No, operator licensing not extended to cover taxi radio circuits.
50. Agree, the definition of operators not extended to include intermediaries.
51. Yes, the "fit and proper" criteria in respect of operators retained.
52. No, operators should not be expressly permitted to sub-contract services.
53. No to keeping records of journeys pre-booked with hackneys.
54. Disagree, licensing authorities should retain the power to limit numbers.
55. In Cambridge the licensing authority stopped restricting numbers, and it lead directly to over-ranking, pollution, congestion, and drivers working longer and unsafe hours.
56. No removal of quantity restrictions.
57. (1) No, all customers have equal priority. (2) No, the requirement already exists.
58. No, there should be no reduced license fee for accessible vehicles.
59. The differing needs of passengers can only be met by providing a range of vehicle types.
60. Agree with no national quotas of wheelchair accessible vehicles.
61. Agree that all drivers should have disability awareness training.
62. Agree with displaying information about complaint procedures.
63. No, the obligation to stop for any customer already exists.
64. Yes, licensing officers should have the power to stop vehicles.
65. Better signage on private hires and better enforcement along with greater public awareness.
66. No, it is impractical to introduce powers to impound vehicles.
67. No, licensing authorities should not use fixed penalty schemes.
68. Yes, but this does not imply agreement with mixing licenses from different authorities.
69. No, only the issuing authority should have the power to suspend or revoke a license.
70. No, the right to appeal should not be limited to the applicant or license holder.
71. Yes, a first appeal should require the licensing authority to reconsider.
72. Yes, appeals should continue to be heard in the magistrates' court.
73. Yes, there should be an onward right of appeal to the Crown Court.

Yours faithfully,

PP Carter
Sent from my iPad

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From: Ian May - SilverServiceTaxi [REDACTED]

Sent: 05 September 2012 19:39

To: TPH

Subject: Consultation Paper No 203

Dear Sirs

I am writing in response to your consultations into the taxi and private hire trade.

Having read your 73 proposals my answers are as follows:

1. Agree with retaining two tier system.
2. Agree to London being included, with modifications.
3. No vehicle type restriction - onus on Local Authority.
4. Agree with restricting vehicles to those that require a driving license.
5. Agree with excluding PSV and including vehicles seating up to 8 passengers.
6. Non-committal about references to stage coaches.
7. Disagree with statutory guidance about novelty vehicles.
8. Disagree with excluding volunteers from legislation.
9. Disagree with including (a) car pooling and (b) members clubs.
10. Disagree with making exclusions to national standards.
11. Agree that weddings and funerals should no longer be excluded.
12. Disagree with reintroducing the contract exemption.
13. Disagree, keep scope of engaging with public to "streets".
14. No special provision in respect of regulation at airports.
15. Agree with "plying for hire" being placed on a statutory footing.
16. Disagree that hailing and ranking should not cover technological means.
17. No advantages in adopting the Scottish approach to defining taxis.
18. Agree that the concept of compellability should be retained.
19. Agree that pre-booking is required for private hire vehicle.
20. Agree that non-professional use should be permitted.
21. No, Ministers should not have the power to issue statutory guidance.
22. No, should not refer to "hackney carriages" as "taxis".
23. No, private hire vehicles should not use terms such as "taxi" or "cab".
24. Yes to national safety requirements.
25. Yes, national safety standards should be minimum standards.
26. Yes, national safety standards should be mandatory.
27. Disagree, knowledge is a safety concern.
28. Agree with local standards for signage, but restrict top signs to hackneys. All vehicles not engaged in contract work should have metered fares fixed by Local Authority.
29. No practical obstacles to common national safety standards.
30. No difference in safety standards between hackney and private hire.
31. Yes, the powers of Ministers to set standards should only relate to safety.
32. Yes, the powers of Ministers should be subject to statutory consultation.
33. Yes, a statutory requirement to refer to a technical advisory panel.
34. Yes, licensing authorities should retain the power to raise standards.
35. Yes, statutory limits to licensing authorities' ability to set local standards.
36. Yes, licensing authorities retain the power to impose conditions.
37. No, cooperation between licensing authorities is best left to local arrangements.
38. No combining of local areas for the purposes of taxi standard setting.
39. No, licensing authorities should not have an option on taxi zones.
40. No peak time licences.
41. No, keep restrictions on private hire operators to their locality.
42. Disagree, vehicles should return to their area.
43. Local authorities should regulate maximum fares in all vehicles.
44. Yes, there might be out of town fees for parking and congestion charges.
45. National driver safety standards should be set out in primary legislation.
46. Disagree, the First Proprietor should be subject to "fit and proper" tests.
47. National vehicle safety standards should be set out in primary legislation.
48. Yes, operator licensing should be mandatory for private hire vehicles.

49. No, operator licensing not extended to cover taxi radio circuits.
50. Agree, the definition of operators not extended to include intermediaries.
51. Yes, the "fit and proper" criteria in respect of operators retained.
52. No, operators should not be expressly permitted to sub-contract services.
53. No to keeping records of journeys pre-booked with hackneys.
54. Disagree, licensing authorities should retain the power to limit numbers.
55. In Cambridge the licensing authority stopped restricting numbers, and it lead directly to over-ranking, pollution, congestion, and drivers working longer and unsafe hours.
56. No removal of quantity restrictions.
57. (1) No, all customers have equal priority. (2) No, the requirement already exists.
58. Yes there should be reduced license fee for accessible vehicles.
59. The differing needs of passengers can only be met by providing a range of vehicle types.
60. Agree with no national quotas of wheelchair accessible vehicles.
61. Agree that all drivers should have disability awareness training.
62. Agree with displaying information about complaint procedures.
63. No, the obligation to stop for any customer already exists.
64. Yes, licensing officers should have the power to stop vehicles.
65. Better signage on private hires and better enforcement along with greater public awareness.
66. No, it is impractical to introduce powers to impound vehicles.
67. No, licensing authorities should not use fixed penalty schemes.
68. Yes, but this does not imply agreement with mixing licenses from different authorities.
69. No, only the issuing authority should have the power to suspend or revoke a license.
70. No, the right to appeal should not be limited to the applicant or license holder.
71. Yes, a first appeal should require the licensing authority to reconsider.
72. Yes, appeals should continue to be heard in the magistrates' court.
73. Yes, there should be an onward right of appeal to the Crown Court.

Yours faithfully,

Ian May

Silver Service Taxi (Cambridge) Ltd

Registered in England No. 07799169

**For all your local or long distance taxi requirements for holiday, business and leisure, anywhere anytime.
1 - 8 passengers & wheelchair accessible vehicles available.**

For a quote we can be contacted @ :-

[REDACTED]
silverservicetaxi@gmail.com

www.silverservicetaxi.co.uk

This email, and any attachments, may be confidential and also privileged. If you are not the intended recipient, please notify the sender and delete all copies of this transmission along with any attachments immediately. You should not copy or use it for any purpose, nor disclose its contents to any other person.

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From: Howard and Julie Cave [REDACTED]

Sent: 05 September 2012 20:13

To: TPH; [REDACTED]

Cc: [REDACTED]

Subject: Taxi Deregulation.

From; H.Cave Plate HC083 2 [REDACTED]

Herewith my comments on the above Law Commission Consultation;

1. Local decisions should be left with local politicians. Local solutions for local problems.
2. Insufficient taxi ranks which will lead to traffic congestion.
3. Insufficient business to support increased taxi numbers.
4. Unfair competition - we will be in competition with people supported by benefits.
5. Hardship for people who have invested in the taxi business (with loans secured on houses) only to find out that the taxi plate is worthless. The income from the business will also be decimated.
6. Why change something that is working OK - there are many other issues that Parliament should be addressing you would think!

Regards.

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From: Flo [REDACTED] Sent: 05 September 2012 20:52 To: TPH Dear Sirs I am writing in response to your consultations into the taxi and private hire trade. Having read your 73 proposals my answers are as follows: 1. Agree with retaining two tier system. 2. Agree to London being included, with modifications. 3. No vehicle type restriction - onus on Local Authority. 4. Agree with restricting vehicles to those that require a driving license. 5. Agree with excluding PSV and including vehicles seating up to 8 passengers. 6. Non-committal about references to stage coaches. 7. Disagree with statutory guidance about novelty vehicles. 8. Disagree with excluding volunteers from legislation. 9. Disagree with including (a) car pooling and (b) members clubs. 10. Disagree with making exclusions to national standards. 11. Agree that weddings and funerals should no longer be excluded. 12. Disagree with reintroducing the contract exemption. 13. 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No, licensing authorities should not have an option on taxi zones. 40. No peak time licences. 41. No, keep restrictions on private hire operators to their locality. 42. Disagree, vehicles should return to their area. 43. Local authorities should regulate maximum fares in all vehicles. 44. Yes, there might be out of town fees for parking and congestion charges. 45. National driver safety standards should be set out in primary legislation. 46. Disagree, the First Proprietor should be subject to "fit and proper" tests. 47. National vehicle safety standards should be set out in primary legislation. 48. Yes, operator licensing should be mandatory for private hire vehicles. 49. No, operator licensing not extended to cover taxi radio circuits. 50. Agree, the definition of operators not extended to include intermediaries. 51. Yes, the "fit and proper" criteria in respect of operators retained. 52. No, operators should not be expressly permitted to sub-contract services. 53. No to keeping records of journeys pre-booked with hackneys. 54. Disagree, licensing authorities should retain the power to limit numbers. 55. In Cambridge the licensing authority stopped restricting numbers, and it lead directly to over-ranking, pollution, congestion, and drivers working longer and unsafe hours. 56. No removal of quantity restrictions. 57. (1) No, all customers have equal priority. (2) No, the requirement already exists. 58. No, there should be no reduced license fee for accessible vehicles. 59. The differing needs of passengers can only be met by providing a range of vehicle types. 60. Agree with no national quotas of wheelchair accessible vehicles. 61. Agree that all drivers should have disability awareness training. 62. Agree with displaying information about complaint procedures. 63. No, the obligation to stop for any customer already exists. 64. Yes, licensing officers should have the power to stop vehicles. 65. Better signage on private hires and better enforcement along with greater public awareness. 66. No, it is impractical to introduce powers to impound vehicles. 67. No, licensing authorities should not use fixed penalty schemes. 68. Yes, but this does not imply agreement with mixing licenses from different authorities. 69. No, only the issuing authority should have the power to suspend or revoke a license. 70. No, the right to appeal should not be limited to the applicant or license holder. 71. Yes, a first appeal should require the licensing authority to reconsider. 72. Yes, appeals should continue to be heard in the magistrates' court. 73. Yes, there should be an onward right of appeal to the Crown Court. Yours faithfully, Florian Arapi Taxi driver 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.) 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From: mohammed ahmed [REDACTED]
Sent: 05 September 2012 21:00
To: TPH
Subject: phv

dear sir
we are a taxi company we think private hire operator and driver should be allowed to work any area in uk regardless of which council they are licensed by.
many thanks
m ahmed

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From: KEITH ROYAL [REDACTED]
Sent: 05 September 2012 21:08
To: TPH
Subject: Pulic Law Team (Taxis and Private hire)
Dear Sir/Madam,

Torbay Hackney Carriage plate Number 54

I have been a taxi driver in Torbay, Devon for 25 years.

The bay is a very seasonal resort, six months of summer and six months of winter. The summer months are not as busy as they used to be due to declining numbers of visitors. The winter months are quiet with a boost at Christmas.

There are 165 Hackney Carriage taxis (plus 7 summer plates) and 380 private hire taxis already servicing the bay. And even now there are not enough rank spaces. During the winter months the Hackney drivers cannot get on the ranks because they do not move quickly enough. The ranks will just not hold extra taxis it would cause chaos in the town and would create illegal parking.

Torbay Council runs a very tight rein on all the taxis in the bay. The life of our taxis cannot be more than 8 years old and have to be kept to a very high standard.

If you allow taxis from outside of the area there will be no way of checking who is working in Torbay or if indeed they have got the correct insurance to cover the taxi trade. This brings it to the health and safety issue. This White paper lends itself to rogue drivers which obviously will jeopardise the safety of passenger, young and old.

Torbay Council set the fares on all meters in the bay, any outsider who works Torbay will have a different meter structure, this is not going to work.

No taxi driver who works any new area hasn't got any local knowledge of the area and visa versa.

If this White paper is passed there will be a lot of us out of work or will have to go on Tax Credit benefit to cover the shortfall of our takings. Is this the right way forward?

Yours faithfully,

Keith Derrick Royal

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From: B FRANKS [REDACTED] Sent: 05 September 2012 21:10 To: TPH Subject: Deregulation of Taxi's To the Law Commission, I understand that the MP for Milton Keynes is in charge of the Judicial review for Taxi and Private Hire Vehicles. It is obvious from reading the proposals that he only has knowledge of city life and does not understand rural and coastal areas. He wants to bring us up to date with technology. Unfortunately in this seaside town Broadband is very slow and we have very poor signal in a lot of areas, Most of our customers are over 60 years old, and 60% of customers use button phones and would not know what an APP is anyway. To put Private Hire vehicles on the ranks would mean that they would have to have Hackney Carriage Insurance as well as Private Hire Insurance,also Private Hire Cars would need to be fitted with meters with the correct tariffs for the districts , which as Private Hire they do not need. What happens in other large areas and cities is not necessarily relevant to places such as Torbay, Bournemouth and Blackpool as they are totally seasonal. Other places have had to revert to regulation as ONE SIZE does not fit all. At the end of day it is best left to the local licensing authority to regulate this form of transport,as well as giving the public a price and form of transport they require. M Franks Plate 122 TORBAY

From: Cool Guy [REDACTED]
Sent: 06 September 2012 01:22
To: TPH
Subject: Consultation Paper No 203

Importance: High

Dear Sirs

I am writing in response to your consultations into the taxi and private hire trade.

Having read your 73 proposals my answers are as follows:

1. Agree with retaining two tier system.
2. Agree to London being included, with modifications.
3. No vehicle type restriction - onus on Local Authority.
4. Agree with restricting vehicles to those that require a driving license.
5. Agree with excluding PSV and including vehicles seating up to 8 passengers.
6. Non-committal about references to stage coaches.
7. Disagree with statutory guidance about novelty vehicles.
8. Disagree with excluding volunteers from legislation.
9. Disagree with including (a) car pooling and (b) members clubs.
10. Disagree with making exclusions to national standards.
11. Agree that weddings and funerals should no longer be excluded.
12. Disagree with reintroducing the contract exemption.
13. Disagree, keep scope of engaging with public to "streets".
14. No special provision in respect of regulation at airports.
15. Agree with "plying for hire" being placed on a statutory footing.
16. Disagree that hailing and ranking should not cover technological means.
17. No advantages in adopting the Scottish approach to defining taxis.
18. Agree that the concept of compellability should be retained.
19. Agree that pre-booking is required for private hire vehicle.
20. Agree that non-professional use should be permitted.
21. No, Ministers should not have the power to issue statutory guidance.
22. No, should not refer to "hackney carriages" as "taxis".
23. No, private hire vehicles should not use terms such as "taxi" or "cab".
24. Yes to national safety requirements.
25. Yes, national safety standards should be minimum standards.
26. Yes, national safety standards should be mandatory.
27. Disagree, knowledge is a safety concern.
28. Agree with local standards for signage, but restrict top signs to hackneys. All vehicles not engaged in contract work should have metered fares fixed by Local Authority.
29. No practical obstacles to common national safety standards.
30. No difference in safety standards between hackney and private hire.
31. Yes, the powers of Ministers to set standards should only relate to safety.
32. Yes, the powers of Ministers should be subject to statutory consultation.
33. Yes, a statutory requirement to refer to a technical advisory panel.
34. Yes, licensing authorities should retain the power to raise standards.
35. Yes, statutory limits to licensing authorities' ability to set local standards.
36. Yes, licensing authorities retain the power to impose conditions.
37. No, cooperation between licensing authorities is best left to local arrangements.
38. No combining of local areas for the purposes of taxi standard setting.
39. No, licensing authorities should not have an option on taxi zones.
40. No peak time licences.
41. No, keep restrictions on private hire operators to their locality.
42. Disagree, vehicles should return to their area.
43. Local authorities should regulate maximum fares in all vehicles.
44. Yes, there might be out of town fees for parking and congestion charges.
45. National driver safety standards should be set out in primary legislation.
46. Disagree, the First Proprietor should be subject to "fit and proper" tests.

47. National vehicle safety standards should be set out in primary legislation.
48. Yes, operator licensing should be mandatory for private hire vehicles.
49. No, operator licensing not extended to cover taxi radio circuits.
50. Agree, the definition of operators not extended to include intermediaries.
51. Yes, the "fit and proper" criteria in respect of operators retained.
52. No, operators should not be expressly permitted to sub-contract services.
53. No to keeping records of journeys pre-booked with hackneys.
54. Disagree, licensing authorities should retain the power to limit numbers.
55. In Cambridge the licensing authority stopped restricting numbers, and it lead directly to over-ranking, pollution, congestion, and drivers working longer and unsafe hours.
56. No removal of quantity restrictions.
57. (1) No, all customers have equal priority. (2) No, the requirement already exists.
58. No, there should be no reduced license fee for accessible vehicles.
59. The differing needs of passengers can only be met by providing a range of vehicle types.
60. Agree with no national quotas of wheelchair accessible vehicles.
61. Agree that all drivers should have disability awareness training.
62. Agree with displaying information about complaint procedures.
63. No, the obligation to stop for any customer already exists.
64. Yes, licensing officers should have the power to stop vehicles.
65. Better signage on private hires and better enforcement along with greater public awareness.
66. No, it is impractical to introduce powers to impound vehicles.
67. No, licensing authorities should not use fixed penalty schemes.
68. Yes, but this does not imply agreement with mixing licenses from different authorities.
69. No, only the issuing authority should have the power to suspend or revoke a license.
70. No, the right to appeal should not be limited to the applicant or license holder.
71. Yes, a first appeal should require the licensing authority to reconsider.
72. Yes, appeals should continue to be heard in the magistrates' court.
73. Yes, there should be an onward right of appeal to the Crown Court.

Yours faithfully,

Y Osman

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From: Andrew Peters Gmail [REDACTED]

Sent: 06 September 2012 03:32

To: TPH

Subject: Taxi and Private Hire Consultation Response

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

Response to the Law Commission Consultation Paper No 204 Reforming the Law of Taxi & Private Hire Service

Sent via email to: tph@lawcommission.gsi.gov.uk

Submitted by: Andrew Peters Date: September 6 2012

Licensing Area: Brighton & Hove

Vehicle Licence: 85

Badge: 85

Email: [REDACTED]

Comments

It is quite astonishing that the Law Commission has been engaged to re-write the established laws of the taxi trade based on the assumption that the current law “..is outdated”. The intention to rip up established ground rules and rewrite the taxi and private laws will cause nothing but chaos for the trade and the public.

The Law Commission has attended many meeting with the trade around the UK and the overall consensus is that these meetings are facade as the decisions have already been made on such matters as removing the power of local councils to control their hackney carriage fleets and to allow private hire vehicle licensed in one area to work in effect 200 miles away in another area.

How can the “consultation” be regarded as a consultation when comments from the Law Commission to the effect “..we will delimit” have been made?

This “consultation” is a completely bungled whitewash as proved with the withdrawal of the “Impact Assessment” document that was shown to be inaccurate.

Removing the power to control hackney carriage numbers will instantly cause mayhem in many towns and cities with councils being forced to issue as many hackney carriage licenses with no limit.

Have lessons not been learned from the situation in Ireland?

Has there been full consultation with areas that delimited... and are now re-limiting such as Crawley, Birmingham, Wirral & Coventry because of the problems that delimitation has caused to the trade?

Not only will delimiting have an impact on the trade with drivers having to fight for ranking spaces and causing extra pollution driving around because of limited spaces... it will also have an effect on enforcement with the increase work required to manage all of these extra vehicle plying for hire and blocking up the roads waiting to get onto ranks.

- Can the Law Commission really believe that by removing hackney carriage limits will have a beneficial effect for the public with drivers having to work extensive hours?
- Can the Law Commission really believe that private hire vehicles licensed in Birmingham... but work in Brighton & Hove without a reasonable amount of topographical knowledge... be safe when purely relying on a satellite navigation system?
- Can the Law Commission really believe it is acceptable for Brighton & Hove licensing officers to have to handle complaints about private hire vehicles licensed in Birmingham who work in Brighton & Hove?

The UK taxi/private hire trade is unique in its composition and plays an enormous part of the UK's transportation system a 24/7 365 days a year basis. What other public transportation system does this? Yet the majority of the trade is self employed with absolutely no subsidies whatsoever.

The current government actively promotes localism.. and yet the proposals from the Law Commission completely contradicts this.

The Law Commission Consultation of "Reforming the Law of Taxi & Private Hire Service" should be immediately halted before utter pandemonium of the UK taxi and private hire trade is caused.

Response

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 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 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 Pedi cabs 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 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 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 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 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 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.

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 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 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 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 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?

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: Agreed, but there should be consideration to the appearance of a private hire vehicle.

Currently the 1976 Miscellaneous Provisions Act states:

48 (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;

Over the years the introduction of illuminated roof signs for private hire vehicles has escalated and as such members of the public have been confused about this. The average person will see a vehicle with an illuminated roof sign and automatically consider the vehicle to be a licensed taxi,,, and try and flag it down for hire. On this basis consideration should be given to the legitimacy of private hire vehicles being allowed to use illuminated roof signs.

There may be arguments that such illuminated roof signs are there for the protection of the public.. however such signs can be abused by the driver. Even when such illuminated roof signs state "Prior

booking only" does still confuses the public from a distance.

If such roof signs are consider necessary then there is still the argument that there is no necessity for them to be illuminated. Indeed many of these illuminated roof signs are wired to the meter of the private hire vehicle which turns off the roof light when meter is engaged and the illuminates the roof light after the journey has been completed. On the face of it this completely contradicts the current 1976 Miscellaneous Provisions Act.

Such roof signs are not permitted private hire/minicabs in London.

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 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 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 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 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 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 22: Reformed legislation should refer to "taxis" and "private hire vehicles" respectively. References to "hackney carriages" should be abandoned

Answer 22: Strongly disagree. The terminology of "hackney carriage" has been in existence for centuries and distinguishes the principle workings & purpose of such a vehicle and without any excuses.

In everyday language somebody may consider in getting a "taxi" whereby what they actually mean is a private hire vehicle or cab. Therefore the word "taxi" is generically used as a vehicle for use of hired transport and not always applied in the correct way.

When seeking insurance, whether for private hire or for a hackney carriage.. an insurance company will specifically ask which type of insurance is required. i.e. "Public hire" hackney carriage or "Hire car" private hire.

Considering the removal of the wording "hackney carriage" seems like muddling for the sake of it.

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.

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 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 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 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 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 29: What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles?

Answer 29: The 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?

Answer 30: 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

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 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 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.

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 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!!

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 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 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 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.

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 42: We do not propose to introduce a "return to area" requirement in respect of out of-area drop offs.

Answer 42: Disagree 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.

Answer 43: Agreed

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

Answer 50: Disagreed

Question 51: Should "fit and proper" criteria in respect of operators be retained? :

Answer 51: Strongly Agreed.

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 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.

Provisional proposal 54: Licensing authorities should no longer have the power to restrict taxi numbers.

Answer 54: Strongly disagree 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 55: What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers?

Answer 55: Strongly disagree 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 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.

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

Answer 58: 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)

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 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 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 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.

Question 64: Should authorised licensing officers have the power to stop licensed vehicles?

Answer 64: 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".

Answer 63: 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?

Answer 66: Agreed

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

Answer 68: 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)

Answer 69: 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.

Answer 70: 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.

Answer Reference 71: The current process in place is sufficient.

Provisional proposal 72: Appeals should continue to be heard in the magistrates' court. (Page 232)

Answer 72: Agreed.

Question 73: Should there be an onward right of appeal to the Crown Court? (Page 233)

Answer 73: Agreed.

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From: Atilla Tiryakioglu [REDACTED]
Sent: 06 September 2012 08:38
To: TPH
Subject: Consultation Paper No 203

Dear Sirs

I am writing in response to your consultations into the taxi and private hire trade.

Having read your 73 proposals my answers are as follows:

1. Agree with retaining two tier system.
2. Agree to London being included, with modifications.
3. No vehicle type restriction - onus on Local Authority.
4. Agree with restricting vehicles to those that require a driving license.
5. Agree with excluding PSV and including vehicles seating up to 8 passengers.
6. Non-committal about references to stage coaches.
7. Disagree with statutory guidance about novelty vehicles.
8. Disagree with excluding volunteers from legislation.
9. Disagree with including (a) car pooling and (b) members clubs.
10. Disagree with making exclusions to national standards.
11. Agree that weddings and funerals should no longer be excluded.
12. Disagree with reintroducing the contract exemption.
13. Disagree, keep scope of engaging with public to "streets".
14. No special provision in respect of regulation at airports.
15. Agree with "plying for hire" being placed on a statutory footing.
16. Disagree that hailing and ranking should not cover technological means.
17. No advantages in adopting the Scottish approach to defining taxis.
18. Agree that the concept of compellability should be retained.
19. Agree that pre-booking is required for private hire vehicle.
20. Agree that non-professional use should be permitted.
21. No, Ministers should not have the power to issue statutory guidance.
22. No, should not refer to "hackney carriages" as "taxis".
23. No, private hire vehicles should not use terms such as "taxi" or "cab".
24. Yes to national safety requirements.
25. Yes, national safety standards should be minimum standards.
26. Yes, national safety standards should be mandatory.
27. Disagree, knowledge is a safety concern.
28. Agree with local standards for signage, but restrict top signs to hackneys. All vehicles not engaged in contract work should have metered fares fixed by Local Authority.
29. No practical obstacles to common national safety standards.
30. No difference in safety standards between hackney and private hire.
31. Yes, the powers of Ministers to set standards should only relate to safety.
32. Yes, the powers of Ministers should be subject to statutory consultation.
33. Yes, a statutory requirement to refer to a technical advisory panel.
34. Yes, licensing authorities should retain the power to raise standards.
35. Yes, statutory limits to licensing authorities' ability to set local standards.
36. Yes, licensing authorities retain the power to impose conditions.
37. No, cooperation between licensing authorities is best left to local arrangements.
38. No combining of local areas for the purposes of taxi standard setting.
39. No, licensing authorities should not have an option on taxi zones.
40. No peak time licences.
41. No, keep restrictions on private hire operators to their locality.
42. Disagree, vehicles should return to their area.
43. Local authorities should regulate maximum fares in all vehicles.
44. Yes, there might be out of town fees for parking and congestion charges.
45. National driver safety standards should be set out in primary legislation.
46. Disagree, the First Proprietor should be subject to "fit and proper" tests.

47. National vehicle safety standards should be set out in primary legislation.
48. Yes, operator licensing should be mandatory for private hire vehicles.
49. No, operator licensing not extended to cover taxi radio circuits.
50. Agree, the definition of operators not extended to include intermediaries.
51. Yes, the "fit and proper" criteria in respect of operators retained.
52. No, operators should not be expressly permitted to sub-contract services.
53. No to keeping records of journeys pre-booked with hackneys.
54. Disagree, licensing authorities should retain the power to limit numbers.
55. In Cambridge the licensing authority stopped restricting numbers, and it lead directly to over-ranking, pollution, congestion, and drivers working longer and unsafe hours.
56. No removal of quantity restrictions.
57. (1) No, all customers have equal priority. (2) No, the requirement already exists.
58. No, there should be no reduced license fee for accessible vehicles.
59. The differing needs of passengers can only be met by providing a range of vehicle types.
60. Agree with no national quotas of wheelchair accessible vehicles.
61. Agree that all drivers should have disability awareness training.
62. Agree with displaying information about complaint procedures.
63. No, the obligation to stop for any customer already exists.
64. Yes, licensing officers should have the power to stop vehicles.
65. Better signage on private hires and better enforcement along with greater public awareness.
66. No, it is impractical to introduce powers to impound vehicles.
67. No, licensing authorities should not use fixed penalty schemes.
68. Yes, but this does not imply agreement with mixing licenses from different authorities.
69. No, only the issuing authority should have the power to suspend or revoke a license.
70. No, the right to appeal should not be limited to the applicant or license holder.
71. Yes, a first appeal should require the licensing authority to reconsider.
72. Yes, appeals should continue to be heard in the magistrates' court.
73. Yes, there should be an onward right of appeal to the Crown Court.

Yours faithfully,

Atilla Tiryakioglu



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From: Samuel, Jackie on behalf of Communications Law Com
Sent: 06 September 2012 09:15
To: Gray, Hannah; Uguccione, Jessica
Subject: FW: Law Commission Consultation

From: mandy parnell [REDACTED]
Sent: 05 September 2012 20:43
To: mandy parnell
Subject: Re: Law Commission Consultation

Dear Sir/Madam,

I have happily been a taxi driver for fifteen years and have made a huge difference in my life going from a single mum of four in a council house to a working mum of four with my own home and business. This is why I feel the need to write and inform you of the affect this white paper will have on us and our customers. Please read and take into consideration the points I am making and before making any changes that will be catastrophic to our livelihoods.

Health and Safety:

1. Hoax drivers/ sex pests

As regular drivers we know and deal with strange cars parking on ranks. Usually they are there to pick up a friend, but it has happened that a girl will get into a non-licensed car because she thinks its a taxi; we all know the stories about girls being picked up and sexually abused or even murdered by "hoax taxi drivers". You also need to remember about school runs and elderly people who use taxis - there are so many terrible conclusions to these vulnerable people being picked up by hoax drivers.

2. Less income

The proposed changes will lead to more people joining the ranks and making less money which will inevitably lead to cheaper cars and less maintenance being done on shabby looking and possibly unsafe vehicles.

3. Rank spaces

Presently there are barely enough spaces for taxis and at night it is ridiculous... If private hire cars were allowed on ranks there would be chaos and this will all lead to illegal parking and a huge problem in policing the ranks at night.

4. Familiarity of drivers

Many people, especially the elderly, will only get into taxis they know, they don't trust new drivers and they don't want people knowing where they live and when they will be out!

Meters

At the moment meters are set by the local authority and private hire have a separate tariff- often a single one. If private hire vehicles were allowed to work on the ranks- how would this work? Also they would need public hire insurance to work the ranks.

A few other points to consider:

Seasonal plates- in Torbay we have extra plates during busy months.

CRB checks?

Local knowledge, Sat Navs are OK but they cant give recommendations for sight seeing, restaurants , etc.

So, to sum up:

Leave the decisions to the local authorities, they know the area and what it needs and they can control things better than Swansea. Things work well as they are and I see no point in shaking things up when the problems, if there are any, can be dealt with at a local level.

Sincerely
Mandy Parnell

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From: Dan Heath [REDACTED]
Sent: 06 September 2012 09:24
To: TPH
Subject: Consultation Paper No 203

Dear Sirs

I am writing in response to your consultations into the taxi and private hire trade.

Having read your 73 proposals my answers are as follows:

1. Agree with retaining two tier system.
2. Agree to London being included, with modifications.
3. No vehicle type restriction - onus on Local Authority.
4. Agree with restricting vehicles to those that require a driving license.
5. Agree with excluding PSV and including vehicles seating up to 8 passengers.
6. Non-committal about references to stage coaches.
7. Disagree with statutory guidance about novelty vehicles.
8. Disagree with excluding volunteers from legislation.
9. Disagree with including (a) car pooling and (b) members clubs.
10. Disagree with making exclusions to national standards.
11. Agree that weddings and funerals should no longer be excluded.
12. Disagree with reintroducing the contract exemption.
13. Disagree, keep scope of engaging with public to "streets".
14. No special provision in respect of regulation at airports.
15. Agree with "plying for hire" being placed on a statutory footing.
16. Disagree that hailing and ranking should not cover technological means.
17. No advantages in adopting the Scottish approach to defining taxis.
18. Agree that the concept of compellability should be retained.
19. Agree that pre-booking is required for private hire vehicle.
20. Agree that non-professional use should be permitted.
21. No, Ministers should not have the power to issue statutory guidance.
22. No, should not refer to "hackney carriages" as "taxis".
23. No, private hire vehicles should not use terms such as "taxi" or "cab".
24. Yes to national safety requirements.
25. Yes, national safety standards should be minimum standards.
26. Yes, national safety standards should be mandatory.
27. Disagree, knowledge is a safety concern.
28. Agree with local standards for signage, but restrict top signs to hackneys. All vehicles not engaged in contract work should have metered fares fixed by Local Authority.
29. No practical obstacles to common national safety standards.
30. No difference in safety standards between hackney and private hire.
31. Yes, the powers of Ministers to set standards should only relate to safety.
32. Yes, the powers of Ministers should be subject to statutory consultation.
33. Yes, a statutory requirement to refer to a technical advisory panel.
34. Yes, licensing authorities should retain the power to raise standards.
35. Yes, statutory limits to licensing authorities' ability to set local standards.
36. Yes, licensing authorities retain the power to impose conditions.
37. No, cooperation between licensing authorities is best left to local arrangements.
38. No combining of local areas for the purposes of taxi standard setting.
39. No, licensing authorities should not have an option on taxi zones.
40. No peak time licences.
41. No, keep restrictions on private hire operators to their locality.
42. Disagree, vehicles should return to their area.
43. Local authorities should regulate maximum fares in all vehicles.
44. Yes, there might be out of town fees for parking and congestion charges.
45. National driver safety standards should be set out in primary legislation.
46. Disagree, the First Proprietor should be subject to "fit and proper" tests.
47. National vehicle safety standards should be set out in primary legislation.
48. Yes, operator licensing should be mandatory for private hire vehicles.

49. No, operator licensing not extended to cover taxi radio circuits.
50. Agree, the definition of operators not extended to include intermediaries.
51. Yes, the "fit and proper" criteria in respect of operators retained.
52. No, operators should not be expressly permitted to sub-contract services.
53. No to keeping records of journeys pre-booked with hackneys.
54. Disagree, licensing authorities should retain the power to limit numbers.
55. In Cambridge the licensing authority stopped restricting numbers, and it lead directly to over-ranking, pollution, congestion, and drivers working longer and unsafe hours.
56. No removal of quantity restrictions.
57. (1) No, all customers have equal priority. (2) No, the requirement already exists.
58. No, there should be no reduced license fee for accessible vehicles.
59. The differing needs of passengers can only be met by providing a range of vehicle types.
60. Agree with no national quotas of wheelchair accessible vehicles.
61. Agree that all drivers should have disability awareness training.
62. Agree with displaying information about complaint procedures.
63. No, the obligation to stop for any customer already exists.
64. Yes, licensing officers should have the power to stop vehicles.
65. Better signage on private hires and better enforcement along with greater public awareness.
66. No, it is impractical to introduce powers to impound vehicles.
67. No, licensing authorities should not use fixed penalty schemes.
68. Yes, but this does not imply agreement with mixing licenses from different authorities.
69. No, only the issuing authority should have the power to suspend or revoke a license.
70. No, the right to appeal should not be limited to the applicant or license holder.
71. Yes, a first appeal should require the licensing authority to reconsider.
72. Yes, appeals should continue to be heard in the magistrates' court.
73. Yes, there should be an onward right of appeal to the Crown Court.

Yours faithfully,

Daniel Heath.
Cambridge City Licensed Hackney Carriage Driver.

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REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

Consultation Response by Mouchel Milton Keynes September 2012

Where questions relate specifically to hackney carriage (taxi) or private hire, the answers given are assuming that a distinction remains.

The views below are based on the operational aspects of organising school and social care transport for local authorities, and may not concur fully with taxi licensing views.

Suggestion	Comments
Question 4 – Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence?	There should be some form of comparable regulation of all vehicles used to transport passengers (including Council’s own vehicles and Land/Road Trains)
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.	Agree, providing that all vehicles with more than eight passenger seats are licensed as passenger carrying vehicles, whether or not they are for hire and reward. This should not prevent smaller vehicles being used to operate registered local bus services.
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. Make it simple, under eight passenger seats “taxi”, over eight “bus”.
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.	Agree – but would need to be carefully worded.
Provisional proposal 11 – Weddings and funerals should no longer be expressly excluded from private hire licensing through primary legislation.	Agree, but there ought to be some relaxation of any requirements for displaying plates or other signage.
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.

Suggestion	Comments
Provisional proposal 25 – National safety standards, as applied to taxi services, should only be minimum standards.	Agree, but calling these “safety standards” gives the wrong impression as some of the links to safety could be seen as tenuous at best.
Question 30 – Should national conditions in respect of driver safety be different for taxi services compared with private hire services?	No.
Question 35 – Should there be statutory limits to licensing authorities’ ability to set local taxi standards?	No, but local standards should not prevent taxis or private hire working in other local authority areas.
Provisional proposal 39 – Licensing authorities should have the option to create, or remove, taxi zones within their area.	Disagree. Zones are an artificial restraint on trade.
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. A licence should be granted for any vehicle meeting the required standards. Restricting some by hours of operation prevents flexibility for the owner and places an artificial restraint on trade.
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.	Agree, but there needs to be a common (national) assessment of private hire drivers.
Question 44 – Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys?	No. People unused to using taxis may get charged more than the meter rate even if they get in at a rank. If a vehicle is registered as hackney carriage, all fares should be subject to the maximum meter rate.
Question 49 – Should operator licensing be extended to cover taxi radio circuits and if so on what basis?	Yes. All organisations offering more than one vehicle (private hire or hackney carriage) should be licensed so that there is obvious comeback (to the licence holder) for the user if a problem arises (e.g. no vehicle turns up).
Provisional proposal 52 – Operators should be expressly permitted to sub-contract services.	Only due to emergencies and with the permission of the customer (the one who has booked the transport).

Suggestion	Comments
<p>Questions 57 / 58 – 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>(2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles.</p> <p>Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards?</p>	<p>No, this should be a local matter to negotiate provision of vehicles to meet local needs.</p>
<p>Question 59 – Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers?</p>	<p>Whilst wheelchair-accessible vehicles are not commonplace, a wheelchair-bound user is still likely to use private hire vehicles. There should be clear legislation that prevents charging extra for people in wheelchairs. A statutory duty could be placed on local authorities to take account of the different needs of disabled passengers and to encourage the market to provide vehicles as appropriate. Legislation could also allow local authorities to provide hackney carriage and private hire services where the market is not meeting the needs.</p>
<p>Provisional proposal 60 – We do not propose to introduce national quotas of wheelchair accessible vehicles.</p>	<p>Although it may not be appropriate to place quotas on individuals, it may be something that could be placed on, e.g. “operators” of ten or more vehicles, with operators relating to both hackney carriage and private hire.</p>
<p>Provisional proposals 1, 2, 22, 46, 72 and 73, and Questions 9, 14, 17, 29, 33, 37, 55, 56 and 65.</p>	<p>No view either way.</p>
<p>All other proposals and questions</p>	<p>Agree with the suggestions proposed.</p>

Peter Walker
Integrated Passenger Transport Unit and Parking Manager
Mouchel Business Services
Saxon Court
502 Avebury Boulevard
Central Milton Keynes
MK9 3HS



PROLEGOMENA

We have assiduously studied the various documents provided during the progress of Law Commission Consultation Paper No 203.

We have found that, in our opinion, certain important issues have not been sufficiently covered within the Consultation which is not surprising given the specialised nature of the Taxi and Private Hire trades which is often an enigma to those not closely connected with our chosen profession.

We have therefore decided that it is necessary for certain detailed information to be presented prior to answering Consultation Paper No 203 itself:

CONDENSED HISTORY

In the beginning – Haquenees were supplied for the rich and powerful to travel from the coast to the centres of power. These were Private Hirings.

Over hundreds of years this developed into stables in more important towns but were still Private Hirings.

Horses, and carriages, were moved from stables to the street thereby creating Public Hirings.

This caused great congestion in London that came to a head in the seventeenth century with a perceived requirement for Licensing in order to protect **public safety** and **prevent thronging**.

Following the successful licensing of boat men on the River Thames first Oliver Cromwell created legislation in 1654 and then King Charles II issued the first licences during 1662 the effect of which, in part, forced Hackney Carriages off the street and into the courtyards of inns. The practice of issuing licences lapsed from 1679 but was re-introduced through Act of Parliament during 1694.

Over the following centuries there was single tier licensing of Hackney Carriages but with unlicensed superior carriages for private hire.

Historically the Hackney Carriage, and now, Taxi Trade (SI 1994 No. 1519 S4) has been firstly Private Hirings and now both Public and Private Hirings. With the introduction of motorised Hackney Carriage licensing after 1903 superior non-licensed limousines gradually appeared for private hirings.

Through apathy the Licensed Hackney Carriage trade failed to modernise sitting on taxi ranks with, in some instances, telephones fitted close by and a few offices without radio communications.

Following the Second World War many unlicensed Minicab firms (Private Hire), also without radios, sprang up around the country. However with the technological advances in radio that World War II produced radios were now small enough to fit into saloon cars and during the 1950's and 1960's many unlicensed Minicab Firms utilised radio to provide a faster service to the public that was more economically beneficial to the driver.

This resulted in a vast increase in numbers throughout England and Wales culminating in the same problem that had occurred in the Hackney Carriage trade during the seventeenth century and it was decided, in the early 1970's, by Plymouth City Council to introduce an Act of Parliament to regulate Private Hire in the City. This was the Plymouth City Council Act 1975 that was gradually introduced by class of licence during 1976.

Private Hire Vehicles were not permitted to park outside offices and every Private Hire Operator had to provide a car park for their respective drivers' vehicles in order that the drivers were not Illegally Plying for Hire.

The Plymouth Act was modified by the then Government and passed by Parliament as the Local Government (Miscellaneous Provisions) Act 1976 being finally imposed upon all Licensing Authorities throughout England and Wales, except London, through the Transport Act 1985 S15.

The Private Hire (London) Act 1998 finally ensured that all Taxi and Private Hire activities in England and Wales are fully licensed.

PENALTIES

Introduction

With approximately 300 separate pieces of legislation affecting the Taxi and Private Hire trades there are a great many possibilities to infringe the current legislation with two principle statutes that create offences relating to Hackney Carriage and Private Hire vehicles and drivers, these are the:

Town Police Clauses Act 1847 (referred to as the 1847 Act)

Local Government (Miscellaneous Provisions) Act 1976 Part II; with the Plymouth City Council Acts 1975 & 1987 affecting the two trades in Plymouth.

The offences are set out below. Those in section A and B relate to Hackney Carriages and are contrary to the 1847 Act, and Plymouth City Council Act 1975 / 1987.

Those in section C are contrary to the Plymouth City Council Act 1975 / 1987, and relate to Private Hire.

In relation to the maximum penalties specified, the levels of fine are currently as follows:

Level 1 - £200 Level 2 - £500 Level 3 - £1,000 Level 4 - £2,500

A Town Police Clauses Act 1847

Section	Offence	Maximum Penalty
40	Giving false information on application for HC proprietor's licence.	Level 1
44	Failure to notify change of address of HC proprietor.	Level 1
45	Plying for hire without HC proprietor's licence.	Level 4
47	Driving a HC without a HC driver's licence.	Level 3
47	Lending or parting with HC driver's licence.	Level 3
47	HC proprietor employing unlicensed driver.	Level 3
48	Failure by HC proprietor to hold HC driver's licence.	Level 1
48	Failure by HC proprietor to produce HC driver's licence.	Level 1
52	Failure to display HC plate.	Level 1
53	Driver refusing to take passenger.	Level 2
54	Charging more than the agreed fare.	Level 1
55	Obtaining more than the legal fare. and 1 month's imprisonment until the excess is refunded.	Level 3
56	Travelling less than the lawful distance for an agreed fare.	Level 1
57	Failing to wait after a deposit to wait has been paid.	Level 1
58	Charging more than legal fare.	Level 3
59	Carrying other person than the hirer without consent.	Level 1
60	Driving HC without proprietors consent.	Level 1
60	Person allowing another to drive HC without proprietors consent.	Level 1
61	Drunken driving of HC.	Level 1
61	Wanton or furious driving or wilful misconduct leading to injury, danger or hurt.	Level 1
62	Driver leaving HC unattended.	Level 1
64	HC driver obstructing other HC's	Level 1

B Plymouth City Council Act 1975 and Local Government (Miscellaneous Provisions) Act 1976 Part II

Section	Offence	Maximum Penalty
S46(1)(a)	Using an unlicensed PH vehicle	Level 3
S46(1)(b)	Driving a PH vehicle without a PH driver's licence.	Level 3

S46(1)(c)	Proprietor of a PH vehicle using an unlicensed driver.	Level 3
S46(1)(d)	Operating a PH vehicle without a PH operator's licence.	Level 3
S46(1)(e)	Operating a vehicle as a PH vehicle when the vehicle is not licensed as a PH vehicle.	Level 3
S46(1)(e)	Operating a PH vehicle when the driver is not licensed as a PH driver.	Level 3
S47(3)	Proprietor of HC contravening HC vehicle licence Conditions (Not in LG(MP)A 1976)	Level 3
S48(6)	Failure to display PH vehicle plate.	Level 3
5(8)	Proprietor of PH vehicle contravening vehicle licence conditions. (Not in LG(MP)A 1976)	Level 3
S49	HC proprietor failing to notify transfer of vehicle	Level 3
S50(1)	Proprietor of HC failing to present HC for inspection as required.	Level 3
S50(2)	Proprietor of HC failing to notify the Council of where the HC is stored, if requested.	Level 3
S50(3)	Proprietor of HC failing to report an accident to the Council.	Level 3
S50(4)	Proprietor of HC failing to produce the vehicle licence for inspection upon request.	Level 3
S50(4)	Proprietor of HC failing to produce the vehicle insurance certificate upon request.	Level 3
S53(3)	Driver of HC failing to produce his driver's licence for inspection upon request.	Level 3
S57	Making a false statement or withholding information to obtain a HC driver or vehicle licence.	Level 3
S58(2)	Failure to return a plate after notice given following expiry, revocation or suspension of a HC proprietor's licence.	Level 3
S61(2)	Failure to surrender a driver's badge after suspension, revocation or refusal to renew licence.	Level 3
S64	Causing or permitting a vehicle other than a HC to wait on a HC stand	Level 3
S66	Charging more than the meter fare for a journey ending outside the district, without prior agreement.	Level 3
S67	Charging more than the meter fare when HC used as private hire vehicle.	Level 3
S69	Driver of HC unnecessarily prolonging journey.	Level 3
S73(1)(a)	Obstruction of an authorised officer or constable	Level 3

S73(1)(b)	Failure to comply with a requirement of an authorised officer or constable.	Level 3
S73(1)(c)	Failure to give information or assistance to an authorised officer or constable.	Level 3

Offences Against Plymouth City Hackney Carriage Byelaws

The Byelaws for Hackney Carriages are reproduced after **section C**. It is an offence to contravene any of the provisions in the Byelaws. Offenders shall be liable to summary conviction and a fine not exceeding level 2 on the standard scale (£500).

We submit that the Taxi and Private Hire trades being so highly regulated should enjoy the full protection of the Law for non-payment of Fares, Assaults on Drivers and Damage to Vehicles and Offices. Unfortunately this is not the case with the Police, CPS and Courts failing to protect members of the Taxi and Private Hire trades going about their lawful business.

CURRENT STATUTES

All current EU Directives, UK Statutes and Statutory Instruments applicable to the Taxi and Private Hire Trades should be incorporated into the Principal Act, or Repealed, with any future Parliamentary decisions incorporated directly into it.

STATISTICS

Table 1: Ratios of Taxis and Private Hire Vehicles to Population and Households

Population Per Vehicle in England & Wales						Population Per Vehicle		
Year	Population	Taxi	PHV	Total	Ratio	Taxi	PHV	Total
1976	N/K	27,000	N/K	-	-	-	-	-
1980	49,634,300	29,400	N/K	-	-	1,688	-	-
1985	49,860,700	32,700	N/K	-	-	1,525	-	-
1989	50,407,800	N/K	N/K	-	-	-	-	-
1994	51,116,200	51,200	N/K	-	-	998	-	-
1999	51,993,500	61,300	N/K	-	-	848	-	-
2005	53,416,300	68,000	124,500	192,500	1.83	786	429	278
2007	54,082,300	73,600	133,000	206,600	1.81	735	407	262
2009	54,809,100	75,900	150,800	226,700	1.99	722	364	242
2010	55,240,500	78,000	N/K	-	-	708	-	-
2011	56,075,900	78,000	155,100	192,500	2.83	719	362	291
Households Per Vehicle in England and Wales						Household Per Vehicle		
Year	Households	Taxis	PHV's	Total	Ratio	Taxi	PHV	Total
1976	16,561,000	27,000	N/K	-	-	613	-	-
1980	17,068,000	29,400	N/K	-	-	581	-	-
1985	17,942,000	32,700	N/K	-	-	549	-	-
1989	18,778,000	43,400	N/K	-	-	433	-	-
1994	19,494,000	51,200	N/K	-	-	381	-	-
1999	20,156,000	61,300	N/K	-	-	329	-	-
2005	21,171,000	68,000	124,500	192,500	1.83	311	170	110
2007	21,527,000	73,600	133,000	206,600	1.81	293	162	104
2009	N/K	75,900	150,800	226,700	1.99	-	-	-
2010	22,285,000	78,000	155,100	233,100	1.99	286	144	96
2011	N/K	78,000	155,100	233,100	2.83	-	-	-

The Population and Household figures were supplied by the Office of National Statistics and those for Taxis and Private Hire Vehicles by the Department for Transport however although everybody approached was very helpful it became apparent that Government Departments do not liaise with each other on statistics as they cannot supply figures for each, or the same, year meaning that the figures of one do not match the figures of the other in many cases.

The above figures are supplied in good faith but cannot be guaranteed. Also, the majority of the population that use Taxis and PHV's are aged between 17 and 74 so the Population figure is not as accurate as the Household figures for working out the statistics.

The figures do show that while the number of Households has increased by approximately one quarter from 1976 when there were 613 Households per Taxi to 2010 by when the number of Taxis has increased more than threefold the number of Households has decreased to 286 per Taxi.

Private Hire Licensing was introduced from 1976 onwards meaning more competition for the Taxi trade, so much so, that by 2005 there were only 110 Households per Licensed Vehicle. The most recent figures, for 2010, show that there are now only 96 Households per Licensed Vehicle. When this writer first started work as a minicab driver he, and his colleagues, were doing in the region of 150 passenger journeys per week. Central and Local Government Policy is causing such financial hardship to Taxi and Private Hire Drivers that several are now claiming Working Tax Credit which is creating a financial burden for Central Government.

Nine trusted Taxi Drivers in Plymouth agreed to undertake a two week survey of the type of journeys they undertook, their work hours and income:

Table 2: Type and Number of Journeys in Plymouth.

Driver	R	H	O	P	S	W	E	Total
1	136	43						179
2	85	44						129
3	108	2						110
4	110	37	10	O/W 6				163
5	114	1				2		117
6	1	1	5	1	109			117
7	112	44						156
8	86	16						102
9		19	40	O/W 4	96	2		161

R = Rank; H = Hail; O = Office; P = Private Booking; S = Station; W = Wheelchair; E = Exempt.

Of the nine Drivers the average number of jobs per week was only 62. There are few Hail journeys undertaken by Daytime Drivers 3, 5 and 6. The majority of Wheelchair Passengers are booked through a Taxi Office 4 and 9.

Table 3: Taxi Driver Hours, Costs and Earnings in Plymouth.

Driver	Week	Working Hours		Takings £	Vehicle		Income £
		Total	Driving		Cost £	Fuel £	
1	1	62.15	11.55	629.50	217.00	112.00	300.00
	2	62.30	14.25	718.40	217.00	135.00	366.40
2	1	32.05	9.05	566.00	189.00	103.87	273.13
	2	27.19	9.17	547.20	189.00	106.33	251.87
3	1	45.00	13.40	321.40	141.75	64.00	115.65
	2	43.05	15.30	468.70	175.00	70.00	223.70
4	1	51.30	11.38	639.80	219.84	113.00	307.80
	2	43.45	9.18	612.30	219.84	117.00	275.46
5	1	48.55	7.00	384.30	175.00	75.51	133.79
	2	51.40	5.06	385.30	175.00	50.10	160.20
6	1	47.16	8.43	477.80	332.63	65.01	60.16
	2	38.46	7.57	439.70	332.63	60.00	47.17
7	1	46.45	11.50	649.70	245.00	135.00	269.70
	2	46.35	8.21	553.50	245.00	95.00	213.50
8	1	38.14	7.10	401.20	70.00	100	231.20
	2	37.59	5.05	289.00	70.00	72.00	147.00
9	1	60.04	14.29	521.40	371.00	135.00	15.40
	2	79.15	21.59	723.60	371.00	180.00	172.60

It will be noted that no Driver earns an exorbitant amount per week. Drivers who work at night earn their money quicker than those who work during the day. The ratio of working to waiting is approximately 1 in 5 during the day and 1 in 3 at night.

Should there be any queries regarding the above we will endeavour to give further details.

“Sooner or later, the authorities will have to grasp the nettle. It is simply unsustainable to allow unfettered growth in the number of licences issued without any regard to the economic situation and other factors”.

Richard Massett, Taxi Newspaper, Issue 13, 20.03.2002, Page 5, on London.

FREE MARKET

Throughout the Consultation reference is made to the Taxi trade being in a Free Market. This is untrue in our opinion. Our costs, income and working conditions are controlled by Licensing Authorities.

The Taxi trade is required, in many areas, to provide vehicles that cost up to three times the cost of competing Private Hire, operate at Taxi Fares controlled by the Licensing Authority thereby being unable to compete, or provide an alternative service, where dead mileage is a factor.

The Taxi trade is required to work from appointed Taxi Ranks while Private Hire is permitted to form ‘ranks’ where and when the public require a Transport Service especially at one off functions.

Licensing Authorities require vehicles with rearward facing wheelchair seating while other departments of the same authority specify forward facing wheelchair seating preventing the Taxi trade from tendering for education and social service contracts further discriminating against the Taxi trade in favour of Private Hire.

WHEELCHAIR PASSENGERS USING WHEELCHAIR ACCESSIBLE VEHICLES

Passengers using Wheelchairs fall into two categories. There are persons who are Wheelchair Users and persons who are Wheelchair Confined.

Many Wheelchair Users prefer to use a saloon car as it is the only time, when sitting next to the driver, that they are treated as being equal as they are at the same level in both stature and for conversation.

When Wheelchair Accessible Vehicles (WAV's) were first available as Taxis for Wheelchair Confined passengers they were used by them.

Private Hire firms noted this market, and as companies, provide one or two Wheelchair Accessible Vehicles, of various capacities, to meet the needs of their customers.



The Ford Transit pictured above can carry two wheelchairs and six passengers, or; three wheelchairs and five passengers, or; four wheelchairs and four passengers.

This Private Hire Operator has two of these vehicles and we understand provides an efficient worthwhile service throughout Plymouth which is financially rewarding to both the driver and the company.

We submit that Private Hire firms now offer a more Wheelchair Confined customer orientated service than the Taxi trade.

This is because the majority of Wheelchair Confined passengers book their journeys, both outward and return, with a regular supplier in whom they trust for previous prompt, efficient and friendly service prior to leaving home.

Private Hire firms are in a position to control the number of WAV's that they provide thereby ensuring that each vehicle is self-financing, efficiently utilised, and thereby creates a living for the driver and profit for the firm.

Taxi Proprietors, on the other hand, are required to purchase more expensive WAV's fitted with a Partition, (which decreases the capacity of the vehicle) Roof Sign and Taximeter making them much more expensive to purchase and maintain.

Because every Taxi is a WAV there are many Taxi Proprietor Drivers who do not carry one Wheelchair Confined passenger per year while providing a more expensive vehicle to the detriment of their profitability and quality of life.

At Airports and Ferry Ports multiple persons are required to load a wheelchair passenger.

At Railway Stations two members of staff working from a level platform into a level carriage, often undercover, are required to ensure that a wheelchair customer is loaded and unloaded efficiently. The passenger is not secured in the carriage.

In an ambulance a wheelchair passenger will not be carried in a wheelchair and there are two staff to load the person.

In a bus the driver is not required to assist the passenger enter, only to place the ramp in position on a normally raised pavement and return it to its stowage. The passenger is not secured.

Only a Taxi Driver, on their own, is required by Law under any conditions of ramp angle, ground angle, weather condition, the age of the driver and the weight of the passenger to assist a Wheelchair Confined person into a Taxi, secure the passenger and wheelchair then reverse the procedure and not charge more for doing so.

The Taxi trade does not object to providing the service, only the manner in which it is being dictated to. This is clearly stated in the ECMT document Economic Aspects of Taxi Accessibility with the IRU at Page 55 Paragraph 3.

There should also be an age limit after which Taxi Drivers should not be compelled to carry Wheelchair Confined passengers.

The Taxi trade, through the poorly drafted Equality Act 2010, is being discriminated against and impoverished through an "excessive burden on business".

LICENCE FEES

A Licensing Authority charge a Licence Fee to a Taxi Driver that can only be used to cover the reasonable cost of issue and administration. ⁽¹⁾

A Licensing Authority charge a Licence Fee to a Taxi Proprietor to cover the reasonable cost of issuing the vehicle licence. ⁽²⁾

A Licensing Authority charge a Licence Fee to a Taxi Proprietor to cover the reasonable cost of providing Taxi Ranks. ⁽³⁾

A Licensing Authority charge a Licence Fee to a Taxi Proprietor to cover the reasonable cost of administration for the above Vehicle Licence and Taxi Ranks. ⁽⁴⁾

We are extremely concerned that Licensing Authorities are making charges upon the two trades that are too far removed and should be paid for through the General Rate Fund. Licensing Committee Meetings and Committee Support Staff; Magistrates Court cases and High Court Cases leaving Licensees with disproportionate Licence Fees of several hundred pounds per year. ⁽⁵⁾

CROSS BORDER

There are different types of Cross Border Hirings. We do not object to Taxi and Private Hire firms that pick up a passenger outside of their area and convey that passenger, who they possibly took to the pick-up point in the first place, back to their own area.

We do object to Private Hire Operators who deliberately 'work' in a neighbouring Licensing Authority area. In our Licensing Authority area which is urban there is one unscrupulous Private Hire Operator who places up to seven Private Hire Vehicles in the main street of a small town that is in an adjoining rural Licensing Authority to the detriment of the small Taxi businesses operating there. One such vehicle was observed to wait for four hours which confirms the low economic returns for the foreign drivers of this firm.

We are very concerned that should the Law Commission Proposals reach fruition a Private Hire Operator licensed by Licensing Authority 'A' using Drivers licensed by Licensing Authority 'B' and Private Hire Vehicles licensed by Licensing Authority 'C' work in Licensing Authority 'D'.

Who is going to be responsible for enforcement in licensing Authority 'D' and who is going to pay for the enforcement ?

Either Licensees in Licensing Authority 'D' will pay or Licensing Authority 'D' will do nothing as there will be no money to pay for enforcement.

⁽¹⁾ Local Government (Miscellaneous Provisions) Act 1976 S53(2)

⁽²⁾ Local Government (Miscellaneous Provisions) Act 1976 S70(1)(a)

⁽³⁾ Local Government (Miscellaneous Provisions) Act 1976 S70(1)(b)

⁽⁴⁾ Local Government (Miscellaneous Provisions) Act 1976 S70(1)(c)

⁽⁵⁾ Hemming & Others – V – Westminster CC QBD Case No: CO/3928/2011 16TH May, 2012

COLOUR

Colour is mentioned in nine paragraphs throughout the Consultation but there is no Proposal or Question on the subject. It is interesting that the Taxi trade will not profit by a single colour uniform that provides “positive externalities” ⁽⁶⁾ for Licensing Authorities while it would be, for Private Hire, an “excessive burden on business”; ⁽⁷⁾ Again, the Taxi trade is being discriminated against.

You will note that our Response at Provisional proposal 1 above shows how Taxis and Private Hire Vehicles should be identified.

Some Licensing Authorities permit Livery advertising and advertising on the sides of Taxis. In some cases this was originally introduced in a failed attempt to compensate Taxi Proprietors for the extra cost of purchasing and maintaining vehicles that met the Metropolitan Conditions of Fitness. The imposition of a stated colour upon a Taxi fleet will be a restriction on the Advertising trade from which many Taxi Proprietors benefit.

There should be no colour policy affecting Taxis unless, and until, there is a National colour preferably the same as another EU country or to comply with an EU policy.

LOCALISM

There are many instances within the Consultation where it is stated that Licensing Authorities are best placed to decide such things as the Fare Table and location of Taxi Ranks.

We submit that as it is recommended that local Licensing Authorities are best placed to decide the number of Taxi Ranks and Taxi Fares to be charged the local Licensing Authority is also best placed to decide the number of Taxis required to provide an efficient, professional, sustainable and rewarding service to the general public within the Licensing Authority area.

Licensing Authorities should be responsible for both Taxi and Private Hire Driver Licensing qualifications including: Topographical Knowledge; Driving Skills; English Language and Money handling.

Central Government repeatedly state that Local Areas should be responsible for their own affairs without interference from Central Government. Licensing Authorities should therefore be responsible for the number of Taxis and Private Hire Vehicles that they licence.

The Plymouth City Council Act 1975 S5(1) gives the Licensing Authority the power to limit Private Hire Vehicle numbers which was used during the late 1980's and early 1990's. A Barristers Opinion supplied by Hugh Parker dated 13.09.1998 confirmed PCC's power to limit numbers of PHV's “... the Council may ...”

Plymouth City Council has not restricted the number of Private Hire Vehicles since the 1990's and the relevant wording was omitted from the Local Government (Miscellaneous Provisions) Act 1976 S48(1).

⁽⁶⁾ 7.28 Note 9 refers.

⁽⁷⁾ 8.22 refers.

TAXI RANKS

There is no duty upon a Licensing Authority to provide Taxi Ranks. It should be the duty of all Licensing Authorities to provide Working Taxi Ranks for two thirds of the number of Taxis licenced by the Authority.

Such Taxi Ranks should be appointed in Locations and at such Times as the General Public require them.

Many Taxi Ranks are not suitable for Passengers in wheelchairs who have to load from the middle of the road instead of from the pavement. In Plymouth this situation arises at the Hospital, Railway Station and Barbican which is the major tourist area of the city.

STANDARDS

Throughout Consultation Paper No 203 the Law Commission refers to Standards; National Standards and Licensing Authority Standards yet these are never defined. It is therefore not possible for Responders to make an informed Response. Also both Licensors and Licensees understand the terms Specifications and Conditions of Licence therefore those are the words that will be found in this Response to differentiate from Standards.

When a Vehicle is licensed as a Taxi the Specification that is applied to the vehicle at the time of the issue of the first licence should not be retrospectively altered for the life of the vehicle so long as the vehicle complies with the original specification and fitness through MOT+ testing.

Age: There should be no Age Policy regarding Taxis as Vintage Taxis can be used for alternative work such as weddings and filming as well as working Cabs.

Quality of vehicles should be by testing and any vehicle that passes an MOT+ should remain licensed for so long as the Taxi Proprietor wishes to have the vehicle licensed.

TAXI TRADE PARANOIA

Having read the Impact Assessment, Summary and Consultation Paper No 203 we became paranoid in that we believe that there is a distinct bias towards the Private Hire trade throughout all three documents. The documents imply more restrictive legislation with additional costs for the Taxi trade while removing unnecessary burdens from Private Hire.

The Summary frontispiece shows an old Taxi first licensed in 1979 compared to three smart Private Hire Vehicles, all the same colour and model, neatly drawn up and bearing Licence Plates 2496, 4334 and 4674 with their number plates obscured but first licensed around 2008.

A Taxi Driver is apparently asleep but in fact reading while a Private Hire Despatch Office is shown with attentive staff neatly presented.

A lady is shown attempting to hail a Taxi where Taxis cannot legally stop and a wheelchair is shown being loaded at the rear of a vehicle when Taxis are virtually all side loading.

It is our opinion that this bias is repeated throughout all of the documents.

PRIVATE HIRE OFFICES



The above are two photographs of Private Hire Operator offices. The Taxi trade objects most strongly to this false advertising to the detriment of the Taxi trade.

The above Private Hire Operators should take pride in the service their companies provide and advertise themselves as Need - A - Car and Carfirst or Firstcar.

PRIVATE HIRE VEHICLES

The majority of Private Hire Vehicles look more like taxis than taxis do.



Which is the Taxi ?



EMISSIONS

Very little mention is made within Consultation Paper 203 of the effect of Emissions. Over recent years research has shown that diesel particulates are creating respiratory diseases.

The occurrence of these diseases appear to be increasing in proportion to the higher EU vehicle standards of emission control. As the particulates become smaller so they penetrate further into the respiratory system of the public especially the young and vulnerable adults.

Consideration should be given to improving the environment especially with alternative fuels such as petrol, gas and electric powered Taxis.

However, when a Taxi is licensed by a Licensing Authority the vehicle should be permitted to be used as a Taxi for so long as it complies with the standard set by the Licensing Authority when the vehicle was first licensed.

LIMOUSINES AND NOVELTY VEHICLES

With the introduction and proliferation of Stretch Limousines and Novelty Vehicles there has been a negative effect upon the Licensed Taxi and Private Hire Trades.

Limousines have always been used for the top end of the Private Hire trade and this is not our concern.

Our concern is that Stretch Limousines and Novelty Vehicles are affecting both trades in that they are not creating much new trade but removing much of the evening trade from the traditional suppliers.

It used to be the case that large numbers of revellers would use several Taxis or Private Hire Vehicles from their originating embarkation point to a pub, restaurant or function. They would then move half way through the evening before moving to a club around midnight and going home at around two or three o'clock in the morning.

This trade has largely been removed from the two trades with the introduction of larger capacity vehicles such as Stretch Limos and Novelty Vehicles including single and double decker buses re-liveried as Party Limos.

INJURY TO DRIVERS

There is a growing level of violence against Taxi and Private Hire Drivers.

Taxi Vehicle Manufacturers and Converters should be required to build in encrypted CCTV that is enabled to be down loaded through an SD Card for Police and Licensing Authority use as evidence.

Such Cameras are available with both in car and forward facing views that can be used to protect drivers as evidence gatherers.

Penalties for Assault and Injury to Taxi and Private Hire Operators, Staff and Drivers should be included in the new Principal Statute.

DAMAGE TO VEHICLES

Where any damage is intentionally caused to a Taxi or Private Hire Office or Vehicle, whether inside or outside, it should be defined as Criminal Action within the Principal Act. ⁽⁸⁾

PLAGIARISM

We have had the opportunity to read the Response submitted by Liverpool City Council and found at Pp37; Q51; Pp52; Pp54; Q56 and Q57 that the Response submitted by LCC is more aptly expressed than this writer would have submitted.

We have therefore plagiarised their Response into our own by altering wording to more suitably express our opinion.

⁽⁸⁾ Criminal Damage Act 1971 SS1 – 3.

IMPACT ASSESSMENT (1A) 13/07/2012

RESPONSE

from the

PLYMOUTH LICENSED TAXI ASSOCIATION

Page 2	<p>Costs: There should be no Training Costs for existing Licensees as they should be granted 'Grandfather Rights'.</p> <p>There should be no cost for training Licensing Staff as that cost is recovered through Licence Fees.</p> <p>Benefits:</p> <p>On-going benefit: We do not agree that there will be less waiting time for intending passengers but there will certainly be more waiting time for Taxi Drivers with the Taxi Trade facing an increased regulatory burden. There is no need to impose Surveys of Unmet Demand (SUD's) should Licensing Authorities be permitted to decide the level of Taxi Vehicle Licences issued for the needs of their own area. We fail to see how there will be reduced assaults on Taxi Drivers as society is becoming less respectful of those providing services in general. Licensing Authorities will still require enforcement costs.</p> <p>Assumptions: We can see no benefits for future passengers however court costs could be reduced through the use of a properly introduced Fixed Penalty Notice regime.</p> <p>(1) The Taxi Trade is the only Small Business that we are aware of that Parliament insists on devaluing. Licensing Authorities should decide the level of Taxis required for their area as they have done from 1861 until 1986 without any problems arising.</p>
Page 4	<p>“the low barriers to entry” We refute this statement; Applicants have at some time invested in Driving Lessons, gained driving experience and kept a reasonably clean driving licence; Applicants than take a superior Driving Test and Medical examination set by the Licensing Authority. Applicants also have to take a Topographical Examination the severity of which is set by the Licensing Authority and in London is said to be the equivalent of a Degree Course.</p> <p>It is our opinion that the writer of this paragraph is ill informed on the subject matter.</p> <p>“non-compliant vehicle or driver from another area” Should a vehicle from another area be non-compliant it follows that that person or vehicle is operating unlawfully and therefore Licensing Inspectors can take action. They certainly do in Plymouth.</p> <p>“Outdated and inflexible law” “on the basis of bookings made in person in a designated office” This is totally incorrect. Taxi Offices were taking telephone bookings prior to the Second World War with Minicab Offices operating in the same manner shortly afterwards.</p>

<p>Page 5</p>	<p>Rationale for Intervention</p> <p>Paragraph 3: The opinion expressed may be true of city centres but in towns and city suburbs many customers rely on a personal service by a preferred Taxi Driver or Taxi Company.</p> <p>At Paragraph 4 Taxi Fares are set by Licensing Authorities to protect the public.</p> <p>At Paragraph 5 see our response to Paragraph 3 above.</p>
<p>Page 6</p>	<p>“More effective enforcement” Licensees pay for all resources so that they are sufficient for reasonable requirements, there is no cost to Licensing Authorities.</p>
<p>Page 7</p>	<p>We broadly agree with Option 1 as presented on pages 7 and 8. The Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976, both slightly modified, should be the basis of the new Act which should incorporate the other 250 pieces of Statutes and Statutory Instruments within itself.</p> <p>At 1) and 3) the word ‘fit’ in this context requires consideration for re-defining in this modern age, see Q45 and Q51 in the main Response.</p> <p>The parts of the proposal that we support or disagree with will be found in more detail in other parts of our Response.</p>
<p>Page 9</p>	<p>Scale and scope: We submit that it is in error that the term ‘Taxi’ refers to Taxis and Private Hire. The word ‘Taxi’ is legally defined by Statutory Instrument 1994 No. 1519 S4.</p>
<p>Page 10</p>	<p>We submit that there should be no “Dual Drivers Licences”, see our Response at Pp 61.</p>
<p>Page 13</p>	<p>Table 3 C. – Fuel should be removed as it is a flexible addition.</p> <p>Purchase/Depreciation; Insurance; Servicing/Maintenance; Tyres and Licences should be calculated. Then the ‘Household’ requirement and finally fuel.</p> <p>LTI manual vehicles of return approximately five pounds earned for each pound spent on fuel.</p> <p>Taking the Law Commission figure of £300 therefore costs £60.00 plus £12 to earn £60 plus £2.00 to earn £12.00 giving a fuel element of £74.00 and increasing the earning need to £374.00 for a return of £300.00.</p> <p>On a long run fuel equates to approximately one third of income because there are only five forward gears. There is a poorer return for automatics.</p>
<p>Page 14</p>	<p>Table 4 C. – There is almost always more dead mileage than paid mileage as passengers journeys are undertaken by the shortest route while return journeys are “hunting trips” and therefore more circuitous.</p>

Page 15	We note the Licensing Commission’s reference to “Latent Demand” and Note 28 referring to the discredited OFT Report. We draw the Law Commissions attention to R. V. Brighton Borough Council, ex parte Bunch D G and Others in the High Court of Justice, Queen’s Bench Division before Mr Justice Kennedy on 14 th March 1989 which states in part “...the statutory use of the present tense must render it unnecessary to consider latent demand.”
Page 16	Taxi offences and prosecution costs – are borne by Licensees through Licence Fees even when the Trades are correct or innocent. One case in Plymouth brought by a non-taxi licensee is believed to be costing Taxi Licensees an estimated £26,000.00. It is our opinion that this was caused, in part, by Licensing Authority incompetence and failure to correctly administer the two trades.
Page 17	Loss of the premium value attached to license plates: Plymouth has delimited twice in the past 35 years with the result that a Taxi Vehicle Licence is now worth about £500 which by your estimates indicates low earnings so why are the Law Commission intent on destroying our chosen profession by creating longer waiting periods, increased working hours and less productive efficiency.
Page 20	Training of Licensing Staff - is paid for through trade budgets financed by Licence Fees. There is no cost to Licensing Authorities.
Page 21	Training of Licensees – while we do not object to, and can appreciate, Probationary Licensees undergoing compulsory training those drivers who hold yearly licences should be granted ‘grandfather rights’ and be exempt from training unless on a voluntary basis.
Page 22	Reduced regulatory burden – Driver Guides such as those who conduct tours around the countryside or to historic sites should be licensed.
Page 23	Reduced waiting time – there is no significantly measurable perceivable waiting time by the public for the services of a Taxi in Plymouth.
Pages 25/27	The content of these pages has been digested and largely disagreed with. We believe that we have covered these points in other parts of our Response.
Page 28	<p>Q1 – <i>We are considering whether operator licensing should be extended to cover taxi radio circuits. What do you consider to be the benefits of this approach?</i></p> <p><i>For example, do you agree that this would allow for more efficient and targeted enforcement, thus both making savings in terms of enforcement resources and deterring unlawful behaviour? Do you think that the additional cost of licensing (approximately £500), which we do not envisage would be significant, will justify the benefits?</i></p> <p>Taxi Offices should be licensed in the same manner as Private Hire Offices.</p>

	<p>Q2 – <i>We have estimated the average annual increase in the number of taxi/PHV drivers as being 4.0 per cent. Do you think that this figure is appropriate?</i></p> <p>Definitely not – the two trades require stability.</p> <p>Q3 – <i>We have a value for the total household expenditure in England and Wales on taxi journeys (£2.35 billion). We think that business and tourist receipts are likely to add at least a further £2.0 billion so that the true industry revenue value probably lies around £5.0 billion for 2012. Do you agree?</i></p> <p>No. The country is in recession and there is no substantive evidence for the conjecture and supposition put forward by the DfT and Law Commission.</p> <p>Q4 – <i>To what extent do you think our proposals will impact on assaults on taxi users? For example, do you agree that a clearer regulatory framework and better enforcement will result in fewer unlicensed vehicles and drivers, as well as less touting?</i></p> <p>The Proposals will make no difference to assaults on Taxi Users. There should be fewer unlicensed drivers and vehicles. Touting is not a problem Illegal Plying for Hire is.</p> <p>Q5 – <i>To what extent do you think that our proposals will impact on assaults on taxi drivers? Do you agree that driver training will give drivers the tools to deal with situations of conflict? Can you identify any other ways in which our proposals will reduce the incidence of attacks on drivers?</i></p> <p>The Law Commission Proposals will not alter the number of assaults on Taxi Drivers. We do not believe that driver training will assist in conflict situations.</p> <p>Q6 – <i>Can licensing authorities identify common areas of legal disputes? And the time and resources taken to deal with them? We are interested in in-house costs and the cost of court attendance.</i></p> <p>This is not directly applicable to the Taxi trade but will be reflected in Licence Fees.</p>
Page 29	Competition – Paragraph four is incorrect unless the Law Commission considers £500.00 to be a “huge premium value”. The damage has already been done by Central and Local Government.
Page 30	Rural areas: We agree with and support the Law Commission Proposals but point out that Taxis have been supplying this service for around one hundred years.
Page 32	It is, in our opinion, patently erroneous to state that “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.” Such service is already adequately provided by the two trades.

LAW COMMISSION CONSULTATION PAPER NO. 203
Reforming the Law of Taxi and Private Hire Services

RESPONSE

from the

PLYMOUTH LICENSED TAXI ASSOCIATION

Provisional proposal 1	<p><i>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)</i></p> <p>We agree; however there is then a requirement to educate and inform the general public regarding the difference between Taxis and Private Hire Vehicles.</p> <p>Taxis should be able to use the words “taxi”, “taxis”, “cab” or “cabs”, or any word closely resembling any of those words.</p> <p>Taxis: should have a Licence Plate at the front and rear of the vehicle; a Roof Sign bearing the word ‘Taxi’ with four illuminable nodules above it;⁽¹⁾</p> <p>Taxis must have a Taximeter linked to the Roof Sign so that when the Taxi is for hire the Roof Sign is illuminated and when the Taxi is hired the Roof Sign is extinguished but one of the four nodules is illuminated showing the tariff engaged – Day, Night, Bank Holiday & Festive Season to assist Enforcement Inspectors to check Overcharging and provide Customer Safety.</p> <p><u>TAXIS</u></p> <p>Taxis are legally defined through Statutory Instrument 1994 No. 1519 S4. "taxi" means (a) in England and Wales, a vehicle licensed under (i) section 37 of the Town Police Clauses Act 1847.</p> <p>Taxis should be plated front and rear to enable public identification and LA enforcement.</p> <p>The rear plate should state, in part: “licensed to carry up to ... passengers”.</p> <p>This will enable flexibility of the service provided at various times of the day and types of passengers being carried.</p> <p>There should be no tinted windows for public safety.</p> <p>Mandatory Vehicles cost more to purchase which coupled with over supply make Taxi Fares more costly than comparative Private Hire Fares.</p> <p>Specifications for taxis required by LAs precludes those taxis from tendering for school and social contracts within departments of the same LA.</p> <p>Taxis, as public transport, should be granted free access to all Transport Hubs such as Airports, Seaports, Ferry Ports, Railway Stations and Bus Stations.</p>
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⁽¹⁾ France.

There should be no charge for dropping off passengers at the foregoing.

Only taxis licensed by the LA within which the facility is situated should normally be permitted to ply for hire at such locations.

All taxis should be permitted to use all Bus Lanes throughout England and Wales.

When Taxis and Private Hire Vehicles (PHV) are permitted to use Bus Lanes, Road Signs should state “Taxis” and/or “PHV” as they are separate modes of transport defined by Statute.

Unmet Demand Surveys should be carried out every five years for the following reasons:

- a. Under normal finance arrangements vehicles are purchased over a five year period.
- b. Local Transport Plans are issued every five years and as public transport taxis should be incorporated within Local Transport Plans.

Unmet Demand Surveys should be financed by the General Rate Fund because Taxis are Licensed to enable Licensing Authorities to protect the public.

There should be no imposed colour schemes by LAs until such time as there is a national colour the same as another major country or, more preferably, an EU colour.

The reason for the foregoing is that various LAs already impose colour schemes including Gwned that have to be black with red bonnets while Bristol has to be a non-manufactured blue; Bournemouth Taxis have to be yellow while in Nottingham Taxis have to be Sherwood Green.

Taxis that have to be a specific colour cost more to purchase when new. They then reduce in value when sold as the new purchaser pays less as he has to have the vehicle re-sprayed, the cycle then repeats throughout the vehicles life to the economic detriment of all proprietors concerned.

Wheelchair Exemptions Signs should be of such size and design to enable them to be displayed in vehicles and easily seen by intending passengers, they should contain a photograph for identification but not the name of the licensee to protect drivers from unscrupulous passengers and force complainants to go to the LA.

Exemption Signs should be placed in clear plastic pockets to enable drivers of the many vehicles that have more than one driver to remove them when not working.

Specifications and Conditions of Licence for vehicles licensed as taxis should not be retrospective for the natural life of the vehicle.

Taxi Ranks should be placed within LA areas where, and at the times, that there is a public need with a 30% proportion of the taxi licences issued by the LA.

Taximeters that are Calendar Controlled and comply with the Table of Fares set by ALL LA's should be a mandatory requirement.

Representative bodies of the Taxi Trade in England and Wales should have the right to Appeal Taxi Fare Increases through the Traffic Commissioners where they have not been reviewed by their LA for a period of eighteen months. Civic Government (Scotland) Act 1982 S18 Appeals in respect of taxi fares.

	<p>The Register of Proprietors and Drivers required to be kept by the Town Police Clauses Act 1847 S42 should not be placed on the internet as in some cases it creates a Contempt of Court and in others it enables unscrupulous complainants to circumvent proper complaint procedures through the LA thereby endangering drivers and their families.</p> <p>Private Hire Vehicles should not be able to use the words “taxi”, “taxis”, “cab” or “cabs”, or any word so closely resembling any of those words as to be likely to be mistaken for them. ⁽²⁾ Private Hire Operators should be able to call their firms Private Hire Cars if they are saloon or estate cars and Private Hire Vehicles if they are Wheelchair Accessible Vehicles or People Carriers.</p> <p>Private Hire Vehicles: should have a Rear Licence Plate and Front Door signs bearing – the Name of the Licensing Authority, the Vehicle Licence Number, the Name of the Operator without telephone number and ‘Insurance Invalid if not Pre-Booked’.</p> <p>Private Hire Vehicles should not be permitted to have roof signs to avoid Confusion in the minds of the general public and for Public Safety. (Appendix 1, Page 40)</p> <p>Waterborne small ferries plying fixed routes should not be able to use the term “Water Taxi” but be restricted to “Ferry”. Water taxis should be governed by the Marine Coastguard Agency (MCA) under separate legislation.</p> <p>There is a requirement for “Immediate Hire” to be defined as stated by - LCC</p>
<p>Provisional proposal 2</p>	<p><i>London should be included, with appropriate modifications, within the scope of reform. (Page 162)</i></p> <p>Yes, there should be a single statute for Taxis and Private Hire in England, Wales, London and Plymouth.</p>
<p>Provisional proposal 3</p>	<p><i>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)</i></p> <p>Taxis and Private Hire Vehicles should be Right Hand Drive, have Four Road Wheels, have sufficient Engine Size to carry a full load of passengers with their luggage on all inclines and able to comply with maximum road speeds. The interiors should be of such size as to accommodate the number of passengers in comfort and safety that it is licensed to carry.</p> <p>Wheelchair Accessible Vehicles in both trades should comply with the above.</p> <p>Taxis must be able to carry passengers to any location within the Licensing Authority area. Any vehicle such as horse drawn, pedicabs, rickshaws and novelty vehicles that cannot do so should hold a Special Private Hire Vehicle licence.</p>

⁽²⁾ Private Hire Vehicles (London) Act 1998 S31(2).

<p>Question 4</p>	<p><i>Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? (Page 164)</i></p> <p>All vehicles however powered that carry the general public for hire and reward should be fully licenced in the interest of an efficient passenger service and public safety.</p>
<p>Provisional proposal 5</p>	<p><i>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)</i></p> <p>We agree that public service vehicles should be expressly excluded from the definition of Taxi and Private Hire Vehicles.</p> <p>As the Consultation correctly states Private Hire vehicles are permitted to be licensed with fewer than nine passenger seats. Taxis are also defined as having less than nine seats.⁽³⁾</p>
<p>Provisional proposal 6</p>	<p><i>References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. (Page 166)</i></p> <p>Correct; Taxis and Private Hire Vehicles should be entitled to charge separate fares without recourse to the Transport Act 1985 SS 11 to 13.⁽⁴⁾</p>
<p>Provisional proposal 7</p>	<p><i>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)</i></p> <p>All vehicles however powered that carry the general public for hire and reward should be fully licenced in the interest of an efficient passenger service and public safety.</p> <p>Limousines with nine or more passenger seats should be licensed as PSV's and the same rules should apply to Novelty Vehicles.</p>
<p>Provisional proposal 8</p>	<p><i>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)</i></p> <p>The above should read “in the course of a business of carrying passengers for hire and reward”.</p> <p>We agree that transport that is ancillary to the business should not be licensed however Private Ambulances (though not for the deceased – Funeral Directors), Hospital Car Services,⁽⁵⁾ small Tour/Safari vehicles should be licensed as Private Hire vehicles.</p>

⁽³⁾ Taxis are permitted to carry less than nine passengers Transport Act 1985 Sch. 7 S1 (b).

⁽⁴⁾ Taxis and Private Hire vehicles – Transport Act 1985 SS 11 to 13.

⁽⁵⁾ When Vehicle Purchase, Superior Maintenance, Insurance, Licensing Authority Licence Fees, special Training and All Round Mileage are taken into consideration many Volunteer Drivers earn more per mile than Taxi Drivers.

	<p>There is a High Court case referring to Pecuniary Advantage involving Free Transport but this writer is currently unable to find it.</p>
<p>Question 9</p>	<p><i>How, if at all, should the regulation of taxis and private hire deal with: (a) carpooling; and (b) members clubs? (Page 170)</i></p> <p>(a) Car Pooling should not be licensed.</p> <p>(b) Members Clubs may be obtaining a Pecuniary Advantage see Pp8 above.</p>
<p>Provisional proposal 10</p>	<p><i>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)</i></p> <p>We disagree - All vehicles however powered that carry the general public for hire and reward should be fully licenced in the interest of an efficient passenger service and public safety.</p>
<p>Provisional proposal 11</p>	<p><i>Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. (Page 172)</i></p> <p>All vehicles however powered that carry the general public for hire and reward should be fully licenced in the interest of an efficient passenger service and public safety.</p> <p>Wedding and Funeral cars normally travel at a sedate speed but motorway speed is not uncommon with the usual safety implications.</p> <p>Individual application for exemption should be allowed to be considered.</p>
<p>Question 12</p>	<p><i>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)</i></p> <p>No - All vehicles however powered that carry the general public for hire and reward should be fully licenced in the interest of an efficient passenger service and public safety.</p>
<p>Provisional proposal 13</p>	<p><i>Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets". (Page 175)</i></p> <p>We agree that there should be regulation regarding all activities of the Taxi and Private Hire Trades.</p>
<p>Question 14</p>	<p><i>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)</i></p>

	<p>Many Taxi Drivers believe that there is not a level playing field regarding Intermodal Transport Hubs such as Airports, Railway Stations, Bus Stations, Park and Ride Sites and Ferry Terminals.</p> <p>At many locations the Taxi Trade, through various bodies, pay fees to Ply for Hire from appointed Taxi Ranks or Taxi Parking Spaces wherever located while pre-booked Private Hire who pay no fees enter to pick up passengers from wherever they arrange to meet and then charge less for comparable journeys.</p> <p>There should be “Free and Open Access” to all Transport Hubs, as envisaged but not enacted in the DDA 1995.</p>
<p>Provisional proposal 15</p>	<p><i>The defining feature of taxis, the concept of “plying for hire”, should be placed on a statutory footing and include:</i></p> <p><i>(a) references to ranking and hailing;</i></p> <p><i>(b) a non-exhaustive list of factors indicating plying for hire; and</i></p> <p><i>(c) appropriate accommodation of the legitimate activities of private hire vehicles. (Page 181)</i></p> <p>We agree that Plying for Hire should be legally defined and placed on a Statutory footing.</p> <p>The Blackpool Council Hackney Carriage & Private Hire Licensing Policy states at Appendix D – Drivers – Private Hire Driver’s Licence Conditions that: “3. The licence holder, whilst acting as driver of a private hire vehicle shall not by any means encourage people to hire the vehicle.”</p> <p>Plymouth City Council has issued guidance to the Private Hire trade regarding Unlawful Plying for Hire</p> <p>“Plying for Hire</p> <p>The key difference is that a private hire driver CANNOT ply for hire by using a taxi rank or pick up from the street when hailed.</p> <p>The Council views the following activities as examples of unlawful plying for Hire</p> <ul style="list-style-type: none"> § Accepting a booking direct from a member of the public § Touting or standing at the roadside directing persons to vehicles § A driver contacting his office by radio in order to make a booking § A driver offering their mobile to enable the customer to make a booking”. <p>(a) We agree, and suggest that Taxi Ranks are a ‘place’⁽⁶⁾ and that hailing takes place in a ‘street’ but we need a broader definition of ‘street’ as some supermarket and entertainment venues provide Taxi Ranks within their car parks⁽⁷⁾</p> <p>(b) Factors indicating Plying for Hire is that the Taxi is being driven or parked with a driver in attendance and the Roof Light illuminated (see Pp1 above).</p>

⁽⁶⁾ Hunt v Morgan KBD 01/12/1948 the hiring of cabs should take place at recognised ranks and not casually in the streets.

⁽⁷⁾ A car park held not to be a "Road". (1998) The Times, October 23 HOUSE OF LORDS Clarke v Kato and Others Cutter - v - Eagle Star Insurance Co Ltd.

	<p>(c) We agree that where Private Hire Vehicles and Drivers are going about their lawful business they should be appropriately accommodated. It appears unreasonable that Taxis are permitted to stop on Bus Stops to load or unload passengers while Private Hire Vehicles are not permitted to do so⁽⁸⁾</p>
Provisional proposal 16	<p><i>The concepts of hailing and ranking should not cover technological means of engaging taxi services. (Page 181)</i></p> <p>The technological means of engaging both Taxi and Private Hire services must be covered within the new Statute.</p> <p>Taxi Rank locations should be placed on both paper and electronic street maps of towns and Cities. Provision should be provided within the Statute for the inclusion of Taxi Ranks status similar to Bus Stop information technology.</p> <p>Hailing a Taxi Driver is increasingly being provided for through electronic means such as 'hailo'.</p> <p>Regarding Private Hire, such a hiring is illegal as all bookings have to be through a Private Hire Operator. The new Statute has to encompass such means of Pre-Booking.</p>
Question 17	<p><i>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)</i></p> <p>The Civic Government (Scotland) Act 1982 S23(1) is not helpful. Taxis Ply for Hire either at Taxi Ranks, by being Hailed, accepting Private Hirings or working through either a Taxi or Private Hire Office. The new Statute must reflect this.</p>
Provisional proposal 18	<p><i>The concept of compellability, which applies exclusively to taxis, should be retained. (Page 182)</i></p> <p>Compellability that applies to Taxi Drivers should be retained with safeguards⁽⁹⁾</p>
Provisional proposal 19	<p><i>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)</i></p> <p>We agree.</p>
Provisional proposal 20	<p><i>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)</i></p> <p>Licence Plates, both front and rear, should be of such design as to be able to be covered when using a Taxi for leisure use by the driver or family.</p>

⁽⁸⁾ Statutory Instrument 2002 No. 3113 Schedule 19 S4.

⁽⁹⁾ The City of Edinburgh District Council Licensing Conditions 27.01.1995 Page 13 Item 75.

	<p>Drivers and families should be permitted to use Private Hire Vehicles for leisure purposes with the rear Plate covered. However Private Hire vehicles will be required to permanently attach front door signs which it will not be possible to cover.</p> <p>This will further discriminate against Taxi Drivers with MCF Taxis.</p> <p>We agree with the following sentiment expressed by LCC: “This will definitely undermine the licensing regime if the proposal becomes law and would simply result in more time and money being spent on trials due to unlicensed drivers and their solicitors trying to rebut the proposed presumption”.</p> <p>Taxis and Private Hire Vehicles Can be used for Social Domestic and Pleasure but only by Licensed Drivers.</p>
Provisional proposal 21	<p><i>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)</i></p> <p>The Secretary of State should have the power to issue statutory guidance in England, London and Plymouth. All Statutory Instruments and Statutory Guidance relating to Taxi and Private Hire matters should be incorporated into the Principal Act every ten years to avoid the current situation of approximately 250 separate legislative items affecting the two trades. ⁽¹⁰⁾</p>
Provisional proposal 22	<p><i>Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned. (Page 185)</i></p> <p>We most definitely agree. This will, in time, remove confusion from intending passengers and improve public safety.</p>
Question 23	<p><i>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)</i></p> <p>Private Hire Operators, Companies and Vehicles should not be able to use the words “taxi”, “taxis”, “cab” or “cabs”, or any word so closely resembling any of those words as to be likely to be mistaken for it. ⁽¹¹⁾ within or as part of a trading name.</p> <p>Private Hire Vehicles should be able to call themselves Private Hire Cars if they are saloon or estate cars and Private Hire Vehicles if they are Wheelchair Accessible Vehicles or People Carriers. (See 1 Above)</p>
Provisional proposal 24	<p><i>Taxi and private hire services should each be subject to national safety requirements. (Page 188)</i></p> <p>Taxi and Private Hire Services should be subject to the same national safety standards.</p>

⁽¹⁰⁾ In the same manner as the Road Safety Act 2006 S52 inserted S61(2A) and (2B).

⁽¹¹⁾ Private Hire Vehicles (London) Act 1998 S31(2).

<p>Provisional proposal 25</p>	<p><i>National safety standards, as applied to taxi services, should only be minimum standards. (Page 189)</i></p> <p>Taxi Services should be of the same standard as Private Hire services.</p>
<p>Provisional proposal 26</p>	<p><i>National Safety Standards, as applied to private hire services, should be mandatory standards. (Page 189)</i></p> <p>National safety standards should be the same for both Taxis and Private Hire throughout England, Wales, London and Plymouth.</p> <p>We are very concerned that there are going to be double standards to the detriment of the Taxi trade.</p> <p>Only Taxis and Taxi Drivers licensed by the same LA as the Private Hire Operator should be permitted to work through a Private Hire Office.</p> <p>Taxis are only permitted to work through Private Hire Offices at fares not greater than those set by the LA. Local Government (Miscellaneous Provision) Act 1976 S67.</p> <p>Third Class of Operator, Staff, Driver and Vehicle Licence</p> <p>There is a requirement for a third class of licence for Operators, Staff, Proprietors, Drivers and Vehicles that do not fall within Taxi and Private Hire Licensing.</p> <p>All vehicles supplied with the services of a driver for carrying persons should be Licensed.</p> <p>Whether money changes hands or not, whether voluntary or professional, every person involved should be licensed.</p> <p>There is therefore a requirement to licence the following non-exhaustive list of activities which benefit either directly or through obtaining a pecuniary advantage.</p> <p>Hotels, Hospital and Ambulance Car Service, Wedding and Funeral Cars, Pub and Social Club Teams, all Voluntary Services with less than nine seats, Limousines and Specialist Party Vehicles, Pedibikes, Trishaws, Rickshaws, Horse Drawn Vehicles and Boats.</p> <p>Non of the preceding should be licensed as Taxis as they do not provide the same service as Licensed taxis, nor I submit, should they all be licensed as Private Hire.</p> <p>All Drivers should have held a UK Driving Licence for three years.</p> <p>All persons involved in providing transport services especially Drivers should have an Enhanced Criminal Records Bureau check as they may carry children and vulnerable persons.</p> <p>All vehicles should be tested and passed as safe by a LA prior to carrying persons.</p>

<p>Provisional proposal 27</p>	<p><i>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)</i></p> <p>All Drivers of Taxis and Private Hire Vehicles should have a basic Topographical Knowledge of their respective Local Authority area.</p> <p>Taxi Drivers should have a higher Knowledge pass rate as they are, in the main, a single operator while a Private Hire Driver can seek guidance through their office.</p> <p>Experienced Private Hire Drivers make better Taxi Drivers should they change trades.</p> <p>We agree with the following submission by LCC: The retention of a topographical test for private hire drivers does in fact have a safety benefit to it – a driver who is lost and trying to work out where he needs to go means that he is a distracted driver who is unable to give full attention to road conditions and potential hazards and may make unexpected and dangerous manoeuvres to get himself back on track.</p>
<p>Question 28</p>	<p><i>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)</i></p> <p>Private Hire Vehicles: should have a Rear Licence Plate and Front Door signs bearing – the Name of the Licensing Authority, the Vehicle Licence Number, the Name of the Operator and ‘Insurance Invalid if not Pre-Booked’.</p> <p>Private Hire Vehicles should not be permitted to have roof signs to avoid confusion in the minds of the general public and for public safety.</p> <p>Private Hire Vehicles should not be able to use the words “taxi”, “taxis”, “cab” or “cabs”, or any word so closely resembling any of those words as to be likely to be mistaken for it. Private Hire Vehicles should be able to call themselves Private Hire Cars if they are saloon or estate cars and Private Hire Vehicles if they are Wheelchair Accessible Vehicles or People Carriers. (See 1 Above)</p> <p>When the Private Hire trade was first licensed in England every Private Hire Operator had to provide a car park for their cars.</p> <p>This was because a car parked outside an office with the same name and telephone number was considered to be de facto illegally plying for hire.⁽¹²⁾ Likewise a car parked in the street, or public place, with office signage, radio aerial and driver in attendance is also de facto illegally plying for hire through image projection.⁽¹³⁾</p> <p>All Private Hire Vehicles should be parked in Office Car Parks or at Licensing Authority appointed ‘Laying Up Points’.</p> <p>Well managed Private Hire firms tend to grow and takeover smaller less efficient firms. They then promote several firms on single vehicles. Private Hire Operators should only be able to use one Trading Name, without telephone number, in order to fit in the Licensing Authority issued Door Sign. (see paragraph, second above, in this question)</p>

⁽¹²⁾ Vant - V - Cripps QBD 30th October, 1963.

⁽¹³⁾ Newman - V - Vincent and Another QBD 31st May, 1962

<p>Question 29</p>	<p><i>What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? (Page 191)</i></p> <p>A practical obstacle to setting common national safety standards for Taxis is the difference between urban MCF and WAV vehicles and rural areas where saloon and estate cars are more common. It is noticeable that in rural areas where cars are used as Taxis there are fewer Private Hire firms.</p> <p>It is the opinion of this writer that throughout Consultation Document 203 the Law Commission appears to confuse Safety with Vehicle Specifications.</p> <p>There is no reason why a national standard of vehicle testing to improve public safety cannot be introduced for both the Private Hire and Taxi trades whatever the vehicle specifications imposed.</p>
<p>Question 30</p>	<p><i>Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (Page 192)</i></p> <p>Partitions in hackney carriages were originally introduced to afford privacy to higher class clientele from the lowly driver. When hackney carriages became motorised they were retained and became an important means of Driver protection. Within Licensing Authorities that specify Purpose Built Vehicles partitions should be retained.</p> <p>Driver safety is important to both Trades. New camera and alarm technology should be permitted to be fitted in vehicles and used.</p> <p>Taxi Proprietors and Drivers should be permitted to use their own judgement in their own business as to how they protect themselves while carrying the general public.</p>
<p>Provisional proposal 31</p>	<p><i>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)</i></p> <p>They should relate to public safety and minimum size for public comfort.</p>
<p>Provisional proposal 32</p>	<p><i>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)</i></p> <p>Yes, national safety standards should be set following consultation with providers and consumers of the Taxi and Private Hire trades.</p>
<p>Question 33</p>	<p><i>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)</i></p> <p>Beware the camel. Such a panel must consist, in part, of knowledgeable Taxi personnel.</p> <p>There is no requirement for the Private Hire trade to be involved in such a panel.</p>

<p>Provisional proposal 34</p>	<p><i>Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. (Page 193)</i></p> <p>Yes – with an appeal procedure for ridiculous ideas such as “Bristol Blue” which requires every vehicle to be changed even if brand new.</p>
<p>Question 35</p>	<p><i>Should there be statutory limits to licensing authorities’ ability to set local taxi standards? (Page 194)</i></p> <p>There should be National Taxi and Private Hire Vehicle standards. Local Licensing Authorities should only be responsible for licensing, administration and enforcement.</p> <p>A list of acceptable “additions” should be maintained by the Department for Transport – items not allowed if not listed.</p>
<p>Question 36</p>	<p><i>Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? (Page 194)</i></p> <p>Individual Conditions imposed on Taxi and Private Hire Drivers should only be used for enforcement. Any Driver who has served one year probation should then be treated in the same manner as their peers.</p>
<p>Question 37</p>	<p><i>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)</i></p> <p>Neither. All Licensing Authorities should be responsible for their own area only. Yes – communication inter-area is a must.</p>
<p>Provisional proposal 38</p>	<p><i>Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. (Page 196)</i></p> <p>No. Licensing Authorities should be responsible for their own area only.</p>
<p>Provisional proposal 39</p>	<p><i>Licensing authorities should have the option to create, or remove, taxi zones within their area. (Page 196)</i></p> <p>Yes: in London and Rural District Councils consisting of small towns and large villages. Also, in a Unitary Authority consisting of a County such as Cornwall and Durham but not in Unitary Authorities that are cities and large towns.</p>
<p>Question 40</p>	<p><i>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)</i></p> <p>No. Busy times subsidise quiet times – part time licences negate this.</p> <p>It is believed that there used to be summer time licences in Newquay and Torbay but they have been discontinued.</p>

<p>Provisional proposal 41</p>	<p><i>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)</i></p> <p>Private Hire Operators should be permitted to accept bookings from any address within England, Wales, London or Plymouth but upon completion the vehicle should return to its own Licensing Authority area though with modern communications this may well be circumvented. Private Hire Operators should be able to sub contract work to other Taxi or Private Hire Operators</p> <p>Private Hire Operators, Drivers, Staff ⁽¹⁴⁾ and Vehicles should all be licensed by the same Licensing Authority.</p>
<p>Provisional proposal 42</p>	<p><i>We do not propose to introduce a “return to area” requirement in respect of out of area drop offs. (Page 199)</i></p> <p>All Taxis and Private Hire Vehicles should return to their own Licensing Authority area upon the completion of a journey.</p> <p>Cross Border Hirings should be permitted for return bookings.</p> <p>Cross Border Hirings should be permitted where an urban area is next to a rural one and no Private Hire Operators or Taxis are in the area.</p> <p>Taxis are licensed to ply for hire within the jurisdiction of the LA. It therefore follows that after dropping off a customer the vehicle and driver have to return to their own LA area before plying for hire.</p>
<p>Provisional proposal 43</p>	<p><i>Licensing authorities should retain the ability to regulate maximum taxi fares.</i></p> <p><i>Licensing authorities should not have the power to regulate private hire fares. (Page 200)</i></p> <p>Local Licensing Authorities should set the Table of Fares for their area.</p> <p>To prevent the public from being overcharged all Taximeters should be tested and sealed by Licensing Authorities.</p> <p>Where any Private Hire Vehicle is fitted with a meter the Licensing Authority should test that the meter complies with the Private Hire Operators tariff and seal the meter. ⁽¹⁵⁾ Not to do so negates all benefit to the customer of a meter.</p> <p>Many Private Hire firms use VDU’s that are also used as ‘taximeters’. Unscrupulous drivers have been known to alter the tariff mid-journey while passengers are outside the vehicle.</p> <p>Meters must be calendar controlled and not adjustable – out of area journeys may be negotiated.</p>

⁽¹⁴⁾ Private Hire Operators, Drivers and Staff should all be subjected to an Enhanced Criminal Record Bureau check.

⁽¹⁵⁾ Local Government (Miscellaneous Provisions) Act 1976 S71.

	<p><u>Taxi Fares</u></p> <p>Taxi Fares are created through Byelaws empowered by the Town Police Clauses Act 1847 S68 <i>Commissioners may make Bye Laws for regulating hackney carriages.</i></p> <p>Also: The Local Government (Miscellaneous Provisions) Act 1976 S65 <i>Fixing of fares for hackney carriages.</i></p> <p>In England and Wales there is no Appeal Procedure relating to Taxi Fares to an outside body apart from the Crown Court.</p> <p>The new Statute should give Taxi Drivers a right of Appeal to the Traffic Commissioners in a similar manner to Scotland. ⁽¹⁶⁾</p> <p>It is our opinion that the part-payment of a Taxi Fare should be considered as a Criminal Offence and not a Civil Matter. “It’s all I’ve got mate – what are you going to do about it ?” Because the sum outstanding may not be great the Police do not enforce the offence which encourages future, and larger, transgression. ⁽¹⁷⁾</p> <p>The Town Police Clauses Act 1847 states at S66 Penalty for refusing to pay the fare that “If any person refuse to pay on demand to any proprietor or driver of any hackney carriage the fare allowed by this or the special Act, or any byelaw made thereunder, such fare may, together with costs, be recovered before one justice as a penalty”.</p> <p>When a Fare Table is duly made it should be done so throughout England, Wales, London and Plymouth utilising a similar methodology, suitably amended, as that currently utilised in London and Brighton.</p> <p>All items included within the tariff – for example “soiling charges” should be clearly treated in the same way as the fare and failure to settle these charges, as with the fare, should be a criminal offence.</p>
<p>Question 44</p>	<p><i>Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (Page 200)</i></p> <p>Yes. Taxi Drivers should be permitted to charge a higher fare for pre-booked journeys to cover dead mileage in the same manner as Private Hire Firms do.</p> <p>This is particularly important in Rural Areas where a taxi may have to travel a considerable distance to a small village and convey a passenger to a nearby hamlet and then return to their base. The current Fare Tables prevent Taxis from competing with Private Hire.</p>

⁽¹⁶⁾ Civic Government (Scotland) Act 1982 S17(2) Taxi fares and S18(1), (2) & (10).

⁽¹⁷⁾ Town Police Clauses Act 1847 S66. Fraud Act 2006 S11

<p>Question 45</p>	<p><i>Should national driver safety standards such as the requirement to be a “fit and proper person” be either:</i> <i>(a) set out in primary legislation; or</i> <i>(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 203)</i></p> <p>In modern parlance “Fit” has come to mean “medically well” or “In good physical Condition”. Perhaps “Of good repute and proper” may be closer to the original meaning.</p> <p>(a) Fit and Proper Person should be legally defined in Primary Legislation.</p>
<p>Provisional proposal 46</p>	<p><i>Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. (Page 204)</i></p> <p>Taxi and Private Hire Vehicle Proprietors should be subject to Enhanced CRB checks in order to prevent the ‘Proceeds of Crime’ from further infiltrating the two trades.</p> <p>Ownership of Taxi and Private Hire Vehicles should be to a named person - not a company or pension fund etc.. Should this be allowed, will all shareholders be CRB checked? perhaps just the MD and Board? A single person Enhanced CRB check would be better.</p> <p>Also; anonymously owned "Companies" make a great front for organised crime.</p>
<p>Question 47</p>	<p><i>Should national vehicle safety standards be either:</i> <i>(a) set out in primary legislation; or</i> <i>(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 205)</i></p> <p>(a) Primary Legislation should ensure that: Taxis have Public Hire Insurance and Private Hire Vehicles have Private Hire insurance.</p> <p>To prevent the public from being overcharged all Taximeters should be tested and sealed by Licensing Authorities.</p> <p>In the interest of Public Safety:</p> <p>There should be no Tinted Glass in Taxis or Private Hire Vehicles.</p> <p>All Taxis and Private Hire Vehicles should be tested twice per year to MOT standard plus bodywork and upholstery.</p> <p>In order to prevent confusion amongst the general public:</p> <p>Taxis should be defined as Taxis, have Roof Signs and For Hire signs.</p> <p>Private Hire Vehicles should not have roof signs or anything to the front to indicate it is a PHV.</p> <p>Private Hire Signage should comply with current London Signage. ⁽¹⁸⁾</p>

⁽¹⁸⁾ Private Hire Vehicles (London) Act 1998 S31(2).

<p>Provisional proposal 48</p>	<p><i>Operator licensing should be retained as mandatory in respect of private hire vehicles. (Page 207)</i></p> <p>We agree that Private Hire Operator Licensing should be imposed through Primary Legislation. Private Hire Operators and Staff should be subject to an Enhanced CRB check to prevent proceeds of crime from entering the Private Hire Trade.</p> <p>Private Hire Operators should not be permitted to use the word ‘Taxi’ or similar ⁽¹⁸⁾ within their company name or advertising unless their vehicle fleet, either owned or contracted, consists of 51% Taxi Vehicles.</p> <p>Individual Taxi Drivers should retain the right to undertake Private Hirings without the requirement to keep records as they have done since the middle of the 17th Century.</p>
<p>Question 49</p>	<p><i>Should operator licensing be extended to cover taxi radio circuits and if so on what basis? (Page 208)</i></p> <p>In the interests of Public Safety and Parity, Taxi Operator Offices and ‘third parties’ should be licensed in the same manner as Private Hire Offices.</p> <p>Taxi Offices should receive Planning Permission and be licensed in the same manner as Private Hire Offices.</p> <p>All staff should have enhanced Criminal Record Bureau checks as they know the locations of children and vulnerable adults.</p>
<p>Provisional proposal 50</p>	<p><i>The definition of operators should not be extended in order to include intermediaries. (Page 209)</i></p> <p>Intermediaries holding knowledge of passenger movements should be licensed with all staff subject to Enhanced CRB checks to help prevent potential burglary by utilising their knowledge of empty property.</p>
<p>Question 51</p>	<p><i>Should “fit and proper” criteria in respect of operators be retained? (Page 210)</i></p> <p>Fit and Proper criteria should be retained for Taxi, Private Hire and Intermediary Operators.</p> <p>The word “fit” in this context should be defined with a relevant modern definition.</p>
<p>Provisional proposal 52</p>	<p><i>Operators should be expressly permitted to sub-contract services. (Page 210)</i></p> <p>Taxi, Private Hire and Intermediary Operators should be permitted to sub-contract through other Licensed Operators wherever located in the European Union.</p>

⁽¹⁸⁾ Private Hire Vehicles (London) Act 1998 S31(2).

<p>Question 53</p>	<p><i>Where a taxi driver takes a pre-booking directly, should recording requirements apply? (Page 210)</i></p> <p>No. The current method of conducting Private Hirings has been in operation since time immemorial; recorded in London for 350 years and throughout the country for 160 years without problem.</p> <p>In the more distant past, long before licensing, all Haquenée journeys were Private Hirings.</p>
<p>Provisional proposal 54</p>	<p><i>Licensing authorities should no longer have the power to restrict taxi numbers. (Page 213)</i></p> <p>The Transport Act 1985 S16 should be repealed. The Town Police Clauses Act S37 should be re-instated.</p> <p>Market Forces are based on the two fundamental forces of supply and demand however the current Central Government policy is a level of supply that is utterly divorced from the level of demand.</p> <p>It appears strange that no attempt is made to justify de-regulation but Councils who regulate are required to justify doing so every three years.</p> <p>The Law Commission Consultation Paper shows a distinct prejudice against restricting the numbers of Taxis and Private Hire Vehicles in line with current political policy. The Paper gives a great deal of space to the condemned OFT Report and not so much to the Transport Select Committee Report that did the condemning. It therefore appears to us that the Law Commission is obviously prejudiced towards the OFT Report.</p> <p>As in other areas of governance it appears that Central Government has implied to the Law Commission that it should be prejudiced towards a deregulatory objective in the interest of Market Forces. Normal Market Forces do not apply to the Taxi trade as Costs and Income are artificially imposed by Licensing Authorities. An increased Supply does not create Demand. This in turn, in our opinion, has created a Consultation Paper containing several Proposed proposals and Questions that are both duplicitous and devious.</p> <p>Throughout the Consultation Paper there is a pervasive prejudice against the restriction of Taxi numbers regardless of the economic effects upon Proprietors and Drivers or whether the business of driving a taxi for a living is worth investing in. With no financial incentive the aging membership of the two trades will not be replaced by committed younger members and the service to the public will be downgraded.</p> <p>Licensing Authorities such as: Cardiff, Chesterfield, Coventry, Crawley, Derbyshire Dales, North East Lincs UA, Plymouth, Southend on Sea UA, Watford and Wirral have re-restricted possibly recognising that the perceived gain by increased numbers can just as easily be negated through traffic congestion. {Licensing Authorities taken from Taxi Driver on Line}.</p> <p>Local Licensing Authorities are in the best position to know the numbers of Taxis and Private Hire Vehicles required to provide an efficient service to the general public while retaining enough profit to reinvest in, and maintain, a modern fleet of vehicles.</p>

To this end, Private Hire vehicles should also, where necessary, be subject to number limitation.

As stated by LCC a Licensing Authority's key roles are the regulation and administration of a well run, efficient Taxi and Private Hire service for the people of the Licensing Authority area and that it is best-placed to decide locally what is in the best interests of the travelling public in that area on such a key issue.

As an example of limitation of Taxi numbers Liverpool's 1,426 taxis provide a day and night provision for users and the delivery of Taxi services are sustainable. Liverpool has a large number of Taxis working at night due to double shifting of Taxi Drivers who work nights as there is a limit on Taxi numbers.

Liverpool City Council 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 Licensing Authorities as it is highly likely that the demand for Taxi Licences would increase placing unachievable demands on the need for additional Taxi 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.

Furthermore, the proposal that there should be an unlimited number of Taxis will, in the professional view of the Liverpool City Council's Highways and Transportation Manager, cause additional congestion at peak periods and therefore flies in the face of the Licensing Authorities statutory duty under Section 16 of the Traffic Management Act 2004. This statutory duty requires the Licensing Authorities to manage road networks so as to secure and facilitate the expeditious movement of traffic.

In performing that duty the Licensing Authorities are expected to take action to secure the more efficient use of their road network and eliminate, reduce or avoid road congestion. It is not apparent that the Law Commission when developing their provisional proposals have considered the impact which they will have on the "network management duty" placed upon local traffic authorities.

There are several scenarios within the De-Restriction of Taxi Vehicle Licence Numbers:

Complete De-Restriction – We are very strongly opposed to such a scheme.

Reduction of Taxi Vehicle Licence Numbers – It is not going to happen.

Controlled growth through Surveys of Unmet Demand – We are opposed to further growth at this time.

Controlled Restriction through Surveys of Unmet Demand – Where this policy is adopted the surveys should be carried out every five years to harmonise with Five Yearly Local Transport Plans thereby giving Taxi Proprietors confidence to re-invest.

Surveys of Unmet Demand – The Taxi trade should not have to pay for Surveys as it is the public who benefit. The money should be taken from the General Rate Fund however should such a policy be introduced Licensing Authorities would state that they were unable to finance Surveys and De-Restriction would follow so once again the Taxi Trade is being discriminated against.

The British Government has decided that there are too many Members of Parliament and is attempting to reduce the number of Members of Parliament.

	<p>After the Second World War a Common Agricultural Policy was introduced in Europe that led to a Butter Mountain; a Grain Mountain and a Wine Lake; as a result a Set Aside Policy was introduced to reduce the oversupply.</p> <p>Central Government has imposed a limit on the number of Lottery Outlets by preventing shops from selling lottery tickets within 400 yards of another lottery outlet.</p> <p>Central Government has imposed Fishing Quotas upon fishing boats in order to preserve fish stocks. There is a requirement to limit the number of taxis in order that there are enough passengers in the pond to enable Taxi Proprietors to re-invest in replacement vehicles.</p> <p>Licensing Authority Committees, drawn from Councillors, make decisions about Licensed Venues. They often decide not to issue a Licence on the entirely sensible premise that there are already enough in the vicinity.</p> <p>Why is the idea of limiting Taxi Vehicle numbers an anathema to the State?</p> <p>It is said throughout the Consultation that there is no control on the numbers of Private Hire Vehicles. This is erroneous. Competent Private Hire Operators realise that to retain professional, competent, conscientious and reliable Drivers there has to be a customer base that is sufficient not only for the office but also per driver in order that each driver can make a living and re-invest in a well maintained, low mileage, vehicle.</p> <p>Professionally competent Private Hire Operators control the numbers of Private Hire Vehicles.</p> <p>Should De-Restriction be adopted there will be a transfer from Private Hire Driver to Taxi Driver especially in those Licensing Authority areas where saloon cars are licensed as Taxis.</p> <p>Private Hire Operators will replace leaving Drivers with others, less experienced and professionally incapable, to meet their customer base.</p> <p>This will lead to less efficient Private Hire firms and all of the problems in the Taxi Trade listed at Question 55.</p> <p>Within Market Forces Supply never leads Demand.</p>
<p>Question 55</p>	<p><i>What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? (Page 213)</i></p> <p>A simple Internet search reveals the following: ‘OPENING BOSTON’S TAXICAB MARKET’ It was written by John E. Kramer and William H. Mellor and became an award winning proposal from the Institute for Justice for the Pioneer Institute’s 1995 "Better Government Competition". Look down to ‘ASSESSMENT FOR REPLICATION’ where you will find Indianapolis as mentioned to the Law Commission on 22.06.2012.</p> <p>Hallelujah Brother, this appears to be the promised land that you wish the Taxi trade in England, Wales, London and Plymouth to embrace:</p>

“In Indianapolis, after only six months of deregulation, there was a nearly 7 per cent increase in the number of cabs. Seventy-five per cent of the new companies are female or minority owned. Nearly all the new taxi owners are former drivers who had long wanted a chance to own their own business. Fares were reduced: pick-up charges dropped 12 per cent; the average mileage rate dropped 3 per cent; and the average first mile rate dropped 7 per cent. Cabs are safer with all companies passing police background checks, enhanced safety inspections, and verification of at least \$100,000 in insurance coverage. The program has been so successful that since taxi deregulation, the city did not receive one written complaint, whereas they used to receive hundreds of complaints annually. “

We do not want it, why ? This writer cannot find the document that counters the above however it relates to deterioration of the fleet and eventual drug running and dealing by drivers desperate to make a living.

“- Deregulation of entry will increase the average costs of the service as more idle capacity in the form of cruising empty taxis or taxis waiting at the taxi stand will be available.”⁽¹⁹⁾

“- At the same time there are economies of density: Double the number of all lengths of taxi trips and simultaneously double the number of taxis. Doing this would double the density of vacant taxis and so decrease the average waiting time. That is, deregulation leading to more entry reduces the waiting time while at the same time increases average producer costs by increasing the idle capacity.”⁽¹⁹⁾

“- At the same time increased market participation will lead to additional excess capacity with an upward pressure on prices.”⁽¹⁹⁾

“The deregulation movement in the USA in the 1980’s affected the taxi industry strongly as several cities deregulated the taxi industry.

The report by Frankena & Pautler (1984) was the highlight in this discussion. The tide changed as the experiences from deregulation had largely not been achieved. Based on this, Teal & Berglund (1987) argued for either retaining price control or entry standards. Several cities in the USA reregulated based on the undesired effect from deregulation.”⁽¹⁹⁾ {including Indianapolis, RWH}

“Quality of Service does not increase; Fares Increase; few New Services are found; Most Cities Re-Regulate and Drivers have to Work Longer hours.”⁽²⁰⁾

{all of which is detrimental to Passenger Service, Passenger Safety and Family Life. RWH}.

De-Restriction of Taxi Vehicle Numbers: leads to loss of service outside peak hours; congregation at ‘honey spots’; increases emissions; creates congestion to the detriment of other road users; places pressure on Road Space Allocation; decreases the period of time that individual Taxis are available for the public to hire; creates enforcement problems for the Police⁽²¹⁾ and licensing Authority staff; decreases vehicle maintenance; creates a transient flow of drivers with no commitment to an easy access trade and reduces re-investment in newer vehicles.

⁽¹⁹⁾ TRENDS IN TAXI REGULATION – Jon-Terje Bekken and Frode Longva – Institute of Transport Economics Association of European Transport 2004 - 5. TRENDS IN TAXI REGULATION

⁽²⁰⁾ The economics of taxi industry regulation. A Kopp, World Bank, INT.

⁽²¹⁾ R – V – MB Wirral QBD CO/2348/2002 Page 10 Paragraph 30.

	<p>We strongly recommend that the Law Commissions considers the Taxi Regulation in Europe Final Report produced by the IRU and dated December 2003 which at Page 70 5.4 relates the disappointing experiences with changes in both America and Europe and that De-Limitation does not work.</p>
Question 56	<p><i>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)</i></p> <p>Quantity Restrictions must not be removed, see 55 above.</p> <p>We include the Response to Question 56 from Liverpool City Council as we fully support the sentiments expressed:</p> <p>The Plymouth Licensed Taxi Association 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 Plymouth.</p>
Question 57	<p><i>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)</i></p> <p>There should not be a separate licence category for wheelchair accessible vehicles.</p> <p>(1) There can be no priority given to disabled passengers by Licensees as there can be no discrimination. ⁽²²⁾</p> <p>Disabled Passengers should receive a comparable standard of service as that provided to Able Bodied Passengers. ⁽²³⁾ It is accepted by the Taxi Trade that it should provide a service for disabled people provided, that by so doing it does not lose financially. ⁽²⁴⁾</p> <p>(2) There should be a duty on Licensing Authorities to provide sufficient working Taxi Ranks for the numbers of Licensed Taxis where and when the general public require them. Favoured facilities could cause friction between Taxi Drivers.</p> <p>Licensing Authorities should make every effort to make Taxi Ranks suitable for the access of persons using wheelchairs with raised kerbs nearby that do not obstruct the actual Taxi Rank. – LCC adapted by the PLTA.</p> <p>Private Hire Operators provide a greater quantity of Passenger Journeys for Wheelchair Confined Passengers than the Taxi Trade does.</p>
Question 58	<p><i>Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? (Page 217)</i></p> <p>No, All Taxi Vehicle Licence Fees should be the same.</p>

⁽²²⁾ Equality Act 2010.

⁽²³⁾ ECMT Economic Aspects of Taxi Accessibility – IRU – Section 5 – Costs; Page 47 Paragraph 3.

⁽²⁴⁾ ECMT Economic Aspects of Taxi Accessibility – IRU – Section 8. Conclusions and Recommendations; Page 55, 3.

<p>Question 59</p>	<p><i>Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? (Page 217)</i></p> <p>The PLTA Policy is that all Taxis should be Wheelchair Accessible Vehicles.</p> <p>Reducing the size of Taxi Fleets would increase the number of Double Banked Taxis available for a greater period of the day thereby improving disabled passenger service.</p> <p>Private Hire firms now provide an adequate supply of vehicles and a more efficient service for those passengers confined to wheelchairs than the Taxi trade.</p>
<p>Provisional proposal 60</p>	<p><i>We do not propose to introduce national quotas of wheelchair accessible vehicles. (Page 218)</i></p> <p>The PLTA Policy is that all Taxis should be Wheelchair Accessible Vehicles.</p>
<p>Provisional proposal 61</p>	<p><i>National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. (Page 219)</i></p> <p>Disability Awareness Training should be part of the Licensing Process for New and One Year Probationary Taxi and Private Hire Drivers.</p> <p><u>TAXI AND PRIVATE HIRE DRIVERS</u></p> <p>All Applicants should have held a UK Driving Licence for three years because UK traffic drives on the left and to ensure a degree of experience.</p> <p>All Applicants should have an Enhanced Criminal Record Bureau check as they will work with children and vulnerable members of society.</p> <p>All new Applicants should pass a VRQ in Road Passenger Vehicle Driving (Taxi and PHV) and DSA enhanced taxi and private hire assessment.</p> <p>All Applicants should pass an oral test in English to enable communication with passengers.</p> <p>All Applicants should pass a topographical knowledge test of their LA area.</p> <p>Drivers with one year or more experience and a clean record should receive Grandfather Rights.</p> <p>There should be two Identification Badges. One badge should be worn and one badge should be displayed in the vehicle.</p> <p>Badges should contain the Driver's Licensing Authority Licence Number and a photograph to enable passengers to identify the driver and complain if necessary.</p> <p>Badges should not contain the drivers name to protect the driver and force complainants to go through Licensing Authority channels.</p> <p>Badges in vehicles should be displayed in clear plastic pockets and be easily removed by drivers of vehicles that have more than one driver.</p>

	<p>Drivers who qualify should be entitled to hold both a Taxi and Private Hire Drivers Licence but there should be no Dual Licences as the two trades are different. A Dual Licence held by a driver can lead to temptation for the driver in the wrong class of vehicle and confusion in the minds of regular customers.</p> <p>There is also the problem of the two trades Budget allocation.</p> <p>There is an urgent and serious requirement for Taxi and Private Hire Drivers to be protected from the unlawful persecution of drivers by Licensing Staff abusing the Road Safety Act 2006 Hackney Carriages and Private Hire Vehicles S52 for immediate suspension and revocation of drivers licences in an inappropriate manner.</p> <p>Both Taxi and Private Hire Drivers should be entitled to compensation for answering any, and all, Mischievous Complaints made against them and dismissed by Licensing Authorities.</p> <p>Taxi Drivers should be automatically exempt from Wheelchair compellability on reaching 60 years of age.</p>
<p>Provisional proposal 62</p>	<p><i>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)</i></p> <p>Information regarding how to complain to the Licensing Authority is, in most cases, displayed on the Fare Table inside the Taxi.</p> <p>The information should also be displayed in all PHV's and included in all cards, flyers and adverts etc.</p>
<p>Question 63</p>	<p><i>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)</i></p> <p>It would be impossible to enforce an obligation to stop.</p> <p>There are well documented instances of certain disabled Peeresses complaining that Taxis do not stop when in fact they are attempting hails where Taxis cannot stop. (certain members of the House of Lords)</p>
<p>Question 64</p>	<p>Should authorised licensing officers have the power to stop licensed vehicles? (Page 222)</p> <p>No – Licensing Inspectors should not have the power to stop vehicles, nor should they inspect vehicles with passengers in them. Licensing Inspectors have the power to inspect Taxi and Private Hire Vehicles when stationary or at the home of the Proprietor or Driver at all reasonable times. ⁽²⁵⁾</p> <p>Only Police Officers in uniform and VOSA staff have the power to stop vehicles. We are also concerned for the safety of Licensing Inspectors especially at night and times of poor visibility.</p>

⁽²⁵⁾ Local Government (Miscellaneous Provisions) Act 1976 S68.

<p>Question 65</p>	<p><i>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)</i></p> <p>Greater use of ‘Test Marketing’ by mingling at Taxi Ranks and Public Places by Licensing Staff. Greater sentencing powers available and meted out to those successfully prosecuted. Private Hire Drivers and Private Hire Operator staff that use the word ‘Taxi’ or similar words should be dealt with by the Licensing Authority for fraud.</p>
<p>Question 66</p>	<p><i>Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? (Page 223)</i></p> <p>It is appropriate to impound the vehicles of persistent Owner Driver offenders after they have previously been convicted in a Magistrates Court followed by explicit written warnings.</p> <p>It is not appropriate to impound the vehicles of Drivers – it is not the vehicles fault.</p>
<p>Question 67</p>	<p><i>Should licensing authorities make greater use of fixed penalty schemes and if so how? (Page 225)</i></p> <p>Currently Licensing Authorities do not have the power to impose financial penalties; only suspend, revoke or refuse to renew.⁽²⁶⁾ In many instances suspension is not proportionate to the nature of the offence. Use of Fixed Penalty Notices, if used reasonably and at an appropriate scale, could be beneficial to both Licensor and Licensee.</p>
<p>Provisional proposal 68</p>	<p><i>Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. (Page 225)</i></p> <p>Licensing Inspectors should have the power to ‘Police’ Drivers and Vehicles from other Licensing Authorities in the same manner as their own Licensees.</p>
<p>Question 69</p>	<p><i>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)</i></p> <p>Cross Border enforcement powers should be extended to include Suspensions when the new Statute requires all Licensing Authorities to have the same standard of Driver and Vehicle fitness.</p>

⁽²⁶⁾ Local Government (Miscellaneous Provisions) Act 1976 SS 61 – 62.

<p>Provisional proposal 70</p>	<p><i>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)</i></p> <p>The right to Appeal should be through the Magistrates Courts and limited to the aggrieved Licensee or Applicant and Associations or Unions acting on behalf of a single or multiple aggrieved Licensees.</p>
<p>Provisional proposal 71</p>	<p><i>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)</i></p> <p>The first hearing by a Quasi-Judicial Licensing Committee should be in Part 1 unless exceptional circumstances apply. Far too many disciplinary hearings are being held in Part II thereby negating any benefit to the Licensing Authority or other Licensees by publicising the type of offences Licensees are being found guilty of.</p> <p>Should Licensees heard in Part II (closed to observers) fail to represent themselves properly because they are not legally, or otherwise, represented, the Licensee cannot be assisted.</p> <p>Appeals should always be heard in Part I in the same manner as it would be in Open Court by Magistrates.</p> <p>In the first instance, an appeal at LA Quasi-Judicial committee would be rare, but for the appellant, far cheaper.</p> <p>We believe that the current practice of appealing to a Magistrates Court is the appropriate method of Appealing subsequent to Quasi-Judicial Licensing Committee reconsideration.</p> <p>Appeals to Magistrates Court that succeed cost the Licensing Budget. A failed appeal before a Quasi-Judicial Licensing Committee would be cheaper and may discourage appeals to a Magistrates Court.</p> <p>When a Licensing Authority dismisses a case against a Licensee or upholds an Appeal the Licensee or Applicant should be compensated ⁽²⁷⁾ from the General Rate Fund as to compensate via Licence Fees sees the absurd position of the compensated funding the compensation.</p>
<p>Provisional proposal 72</p>	<p><i>Appeals should continue to be heard in the magistrates' court. (Page 232)</i></p> <p>We agree that subsequent Appeals should continue to be heard in the Magistrates' Court.</p>

⁽²⁷⁾ Town Police Clauses Act 1847 S65

Question 73	<i>Should there be an onward right of appeal to the Crown Court? (Page 233)</i> There should be an onward right of Appeal all the way, through correct application, to the highest court in Europe.
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What the Taxi and Private Hire trades desperately need is stability and fairness. 'Stability' generates confidence and growth and 'fairness' delivers satisfaction and support.

Roy W. Hamilton,
Secretary,

Greatly Assisted by:

Christopher R. Wildman,
Vice Chairman,

Plymouth Licensed Taxi Association

6th September, 2012.

EAST LINDSEY DISTRICT COUNCIL

Response to Law Commission Consultation – “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).

- 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.

- Agreed

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 - All vehicles available for hire with a driver should need to be licensed (e.g. Pedicabs and Horse Drawn Carriages).

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

- There would be no advantage to restricting licensing to motor vehicles. All vehicles available for hire with a driver should need to be licensed (e.g. Pedicabs and Horse Drawn Carriages).

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

Provisional proposal 6 - References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis?

- 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.

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.

- 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’.

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 exempt from licensing.
- Members Clubs should be licensed – the concept of “in the course of a business of carrying passengers” needs to be clearly defined in order to cover Members Clubs.

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

Provisional proposal 11 - Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation.

- Agreed

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 – This Authority would not support the reintroduction of the contract hire exemption from licensing.

Provisional proposal 13 - Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to “streets”.

- Regulation should not be limited to streets. We 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?

- The Taxi and PHV licensing regulations for Airports, Railway Stations and Seaports should mirror those nationally. This Authority sees no merit in making 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.

- Agreed

Provisional proposal 16 - The concepts of hailing and ranking should not cover technological means of engaging taxi services.

- 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”?

- Agreed but we would suggest that there should be a link to provisional proposal 15 (above).

Provisional proposal 18 - The concept of compellability, which applies exclusively to taxis, should be retained.

- 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.

- 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.

- Agreed – provided there is a requirement for driver to carry proper identification and insurance documents.

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

Provisional proposal 22 - Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned.

- This Authority agrees that standard terms are required (e.g. taxis and private hire vehicles). The term “hackney carriage” is archaic and outdated, and the term should be removed.
- However, the introduction of standard terms needs to be considered in conjunction with Question 23 below.

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?.

- This Authority would not support private hire vehicles being able to use terms such as “taxi” or “cab” in advertising material.

A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24 - Taxi and private hire services should each be subject to national safety requirements.

- Agreed

Provisional proposal 25 - National safety standards, as applied to taxi services, should only be minimum standards.

- Agreed

Provisional proposal 26 - National safety standards, as applied to private hire services, should be mandatory standards.

- Agreed

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

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?

- National standards should be retained in respect of vehicle signage.

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

- We envisage no obstacles in relation to this proposal.

Question 30 - Should national conditions in respect of driver safety be different for taxi services compared with private hire services?

- 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.

- Yes, provided Local Authorities retain the power to set standards in relation to vehicle comfort and appearance.

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.

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 Authority agrees that there should be a statutory requirement to consult with / refer to a technical advisory panel.

Provisional proposal 34 - Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards.

- Agreed

Question 35 - Should there be statutory limits to licensing authorities' ability to set local taxi standards?

- This Authority would support a limit in order to aid consistency across the Country.

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

- 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?

- We would support the provision of local arrangements with minimum requirements and guidance set down in legislation.

Provisional proposal 38 - Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting.

- Agreed – this would allow the taxis regime to be administered by the respective strategic transport authority and integrated with local bus and rail services. It would also facilitate conurbation wide ‘districts’ in such areas as Manchester, Merseyside, etc.

Provisional proposal 39 - Licensing authorities should have the option to create, or remove, taxi zones within their area.

- 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?

- No

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.

PART 1 - Agreed – Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality. However, this should be subject to the agreement of clear national standards.

Part 2 - Not Agreed – We have some degree of reservation that operators would be able to use drivers and vehicles licensed with different Authorities.

Provisional proposal 42 - We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs.

- 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.

- Agreed - Having regard to Provisional proposal 38 (above)

Question 44 - Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys?

- 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?

- 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.

- Disagree

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?

- National vehicle safety standards should be set out in primary legislation. The Secretary of State and Welsh Ministers' allowed to further define vehicle safety standards by regulation should the need arise.

Provisional proposal 48 - Operator licensing should be retained as mandatory in respect of private hire vehicles.

- Agreed

Question 49 - Should operator licensing be extended to cover taxi radio circuits and if so on what basis?

- Yes – as private hire.

Provisional proposal 50 - The definition of operators should not be extended in order to include intermediaries.

- Disagree

Question 51 - Should "fit and proper" criteria in respect of operators be retained?

- Yes

Provisional proposal 52 - Operators should be expressly permitted to sub-contract services.

- Agreed

Question 53 - Where a taxi driver takes a pre-booking directly, should recordkeeping requirements apply?

- Yes

REFORMING QUANTITY CONTROLS

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?

- The removal of the restriction on taxi vehicle numbers can lead to over ranking, obstruction and general parking 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?

- Yes

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.**

- Yes.

Question 58 - Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards?

- 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?

- When removing any limits on hackney carriage vehicle licence numbers any new licences issued (above the old limit) should be for wheelchair / disabled access vehicles.

Provisional proposal 60 - We do not propose to introduce national quotas of wheelchair accessible vehicles

- Disagree

Provisional proposal 61 - National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training

- 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.

- 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?

The issue should be addressed by a stringent legal obligation with tough sanctions for failure to comply. Yes, the introduction of an obligation to stop would be helpful, provided if it was reasonable and safe to do so.

REFORMING ENFORCEMENT

Question 64 - Should authorised licensing officers have the power to stop licensed vehicles?

- 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.

- This Authority believes that ‘test purchasing’ is the best remedy.

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, but only in relation to matters relating to vehicle safety

Question 67 - Should licensing authorities make greater use of fixed penalty schemes and if so how?

Yes – This Authority would support the introduction of fixed penalty schemes for infringements of licensing conditions, etc.

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?

- Yes, via the introduction of a “Home” Licensing Authority scheme.

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

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

- Agreed

Provisional proposal 72 - Appeals should continue to be heard in the magistrates' court

- Agreed

Question 73 - Should there be an onward right of appeal to the Crown Court?

- We would question whether there is a need for a Crown Court appeal if proposal 71 (above) is introduced.

Mr Adrian Twiddy
Principal Licensing Officer
East Lindsey District Council
Tedder Hall
Manby Park
LOUTH LN11 8UP

Tel: 01507 601111 [REDACTED]

Email: [REDACTED]

6 September 2012

From: Cool Classic Cars [REDACTED]
Sent: 06 September 2012 09:57
To: TPH
Subject: Reforming the law of taxi and private hire services

To Whom it may concern

There is currently a fact finding exercise being undertaken by the Law Commission for "Reforming the law of taxi and private hire services". Within the proposals for debate there is a clause that says "Weddings and funerals should no longer be expressly excluded from private hire licensing through primary legislation". Meaning that all cars will have to pass local authority tests, all operators will require a local authority operator's license. Every driver will have to be licensed and that will involve a Driving Standards Agency driving test, a CRB check and a Medical.

If this goes ahead the majority of wedding car operators will be priced out of the market as the costs of obtaining private hire status for a company and drivers are enormous. Those that do licence everything will have to increase their prices substantially which will well push them over the VAT threshold and therefore, increasing their hire cost to levels that brides will no longer be prepared to pay.

The vehicle owners/companies who operate the business would need a private hire operator's license, and all drivers would also have to be individually licensed. The really difficult part would relate to the drivers who would normally be driving for weddings on just a small number of weekends in a year. They would also have to be licensed which involves having to take the DSA (Driving Standards Agency) private hire/taxi driving tests, have a CRB report (Criminal Records Bureau), as well as a group 2 medical examination and take the "knowledge" test. The cost of this would be greater than the amount of wages received and most certainly prohibitive to the business owner as this also would have to be passed on to the client taking out of reach of most Brides.

Do we really want to lose these wonderful traditional wedding cars?

Just think what would happen if the driver goes sick the day before the wedding, and a replacement fully licensed driver could not be found! the car would have to be cancelled at the last minute, leaving absolutely no time for the Bride to find an alternative from one of the few remaining companies prepared to hire wedding cars.

Most 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 and the upkeep of an established British tradition. 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, a great British tradition and take away valuable income from those very people that have already made and continue to make a considerable contribution to the system in Tax and National insurance. Before you can suggest that this a black market money I can assure you that 99% of any money I take is by credit/debit card and therefore, impossible to evade Taxation.

While I have little problem with vehicles being licensed as these are cars owned by enthusiasts and maintained to very high standards, probably more than modern vehicles. In fact the government have just changed the MOT laws so that any vehicle older than 1960 will no longer need an MOT (a bit of a contradiction in this case). What I do object to is the licensing of the drivers, the cost of obtaining a licenses and the restrictions imposed for a small amount of wedding hires compared to taxis/chauffeur hire. All weddings are a fixed pick up to a fixed venue (not tax hire) there are no children unsupervised by their relatives and the driver is not chasing around finding hiring's as a taxi would. Further to this because of the nature of the vehicle and it's Hire they would be traveling at low speeds and therefore, complying to our traffic laws more readily. To enforce these changes to wedding cars being classed as private hire vehicles we well find that in a few years time there are virtually no classic or vintage cars to choose from to cover a well established tradition, with any left being very expensive indeed.

In my opinion the proposal has not looked at the greater picture. It will take away part of the tradition of the greatest day in a couples life and at no or insignificant financial gain to the governments purse, in fact it will probably end up

costing in more in benefits paid out to the unemployed, bankruptcies and the already low income part of our society, all be it small, it's in the wrong direction.

I have had it said to that this is for a level playing field for Taxi's if this is the case and our cars are fully registered as required it would initial them to line up on the taxi ranks for business. I would think that Taxi's would not like the computation of a Vintage and Classic cars on the ranks or phone hire as I'm sure most people would rather travel in style if given the chance.

Yours sincerely
Paul Williams

Proprietor
Cool Classic Cars

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From: Khalida [REDACTED]
Sent: 06 September 2012 10:17
To: TPH
Subject: Consultation Paper No 203
Dear Sirs

I am writing in response to your consultations into the taxi and private hire trade.

Having read your 73 proposals my answers are as follows:

1. Agree with retaining two tier system.
2. Agree to London being included, with modifications.
3. No vehicle type restriction - onus on Local Authority.
4. Agree with restricting vehicles to those that require a driving license.
5. Agree with excluding PSV and including vehicles seating up to 8 passengers.
6. Non-committal about references to stage coaches.
7. Disagree with statutory guidance about novelty vehicles.
8. Disagree with excluding volunteers from legislation.
9. Disagree with including (a) car pooling and (b) members clubs.
10. Disagree with making exclusions to national standards.
11. Agree that weddings and funerals should no longer be excluded.
12. Disagree with reintroducing the contract exemption.
13. Disagree, keep scope of engaging with public to "streets".
14. No special provision in respect of regulation at airports.
15. Agree with "plying for hire" being placed on a statutory footing.
16. Disagree that hailing and ranking should not cover technological means.
17. No advantages in adopting the Scottish approach to defining taxis.
18. Agree that the concept of compellability should be retained.
19. Agree that pre-booking is required for private hire vehicle.
20. Agree that non-professional use should be permitted.
21. No, Ministers should not have the power to issue statutory guidance.
22. No, should not refer to "hackney carriages" as "taxis".
23. No, private hire vehicles should not use terms such as "taxi" or "cab".
24. Yes to national safety requirements.
25. Yes, national safety standards should be minimum standards.
26. Yes, national safety standards should be mandatory.
27. Disagree, knowledge is a safety concern.
28. Agree with local standards for signage, but restrict top signs to hackneys. All vehicles not engaged in contract work should have metered fares fixed by Local Authority.
29. No practical obstacles to common national safety standards.
30. No difference in safety standards between hackney and private hire.
31. Yes, the powers of Ministers to set standards should only relate to safety.
32. Yes, the powers of Ministers should be subject to statutory consultation.
33. Yes, a statutory requirement to refer to a technical advisory panel.
34. Yes, licensing authorities should retain the power to raise standards.
35. Yes, statutory limits to licensing authorities' ability to set local standards.
36. Yes, licensing authorities retain the power to impose conditions.
37. No, cooperation between licensing authorities is best left to local arrangements.
38. No combining of local areas for the purposes of taxi standard setting.
39. No, licensing authorities should not have an option on taxi zones.
40. No peak time licences.
41. No, keep restrictions on private hire operators to their locality.
42. Disagree, vehicles should return to their area.
43. Local authorities should regulate maximum fares in all vehicles.
44. Yes, there might be out of town fees for parking and congestion charges.
45. National driver safety standards should be set out in primary legislation.
46. Disagree, the First Proprietor should be subject to "fit and proper" tests.
47. National vehicle safety standards should be set out in primary legislation.
48. Yes, operator licensing should be mandatory for private hire vehicles.

49. No, operator licensing not extended to cover taxi radio circuits.
50. Agree, the definition of operators not extended to include intermediaries.
51. Yes, the "fit and proper" criteria in respect of operators retained.
52. No, operators should not be expressly permitted to sub-contract services.
53. No to keeping records of journeys pre-booked with hackneys.
54. Disagree, licensing authorities should retain the power to limit numbers.
55. In Cambridge the licensing authority stopped restricting numbers, and it lead directly to over-ranking, pollution, congestion, and drivers working longer and unsafe hours.
56. No removal of quantity restrictions.
57. (1) No, all customers have equal priority. (2) No, the requirement already exists.
58. No, there should be no reduced license fee for accessible vehicles.
59. The differing needs of passengers can only be met by providing a range of vehicle types.
60. Agree with no national quotas of wheelchair accessible vehicles.
61. Agree that all drivers should have disability awareness training.
62. Agree with displaying information about complaint procedures.
63. No, the obligation to stop for any customer already exists.
64. Yes, licensing officers should have the power to stop vehicles.
65. Better signage on private hires and better enforcement along with greater public awareness.
66. No, it is impractical to introduce powers to impound vehicles.
67. No, licensing authorities should not use fixed penalty schemes.
68. Yes, but this does not imply agreement with mixing licenses from different authorities.
69. No, only the issuing authority should have the power to suspend or revoke a license.
70. No, the right to appeal should not be limited to the applicant or license holder.
71. Yes, a first appeal should require the licensing authority to reconsider.
72. Yes, appeals should continue to be heard in the magistrates' court.
73. Yes, there should be an onward right of appeal to the Crown Court.

Yours faithfully,

Mr S Khan

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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)

Agreed - removal of this distinction would result in an overall reduction in standards.

REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

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

Agreed - regulation should be uniform throughout the country and all districts should conform to the same standards set down in a single piece of legislation.

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)

Yes, legislation should focus primarily on public safety and comfort rather than the type of vehicle licensed.

Question 4

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

There would be no advantage in imposing such a restriction. Legislation should encompass all the various types of hireable vehicle, although this may require separate categories of 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)

The distinction between vehicle types needs to be more specific i.e. eight or fewer passenger seats and wheelbase less than 2.8m. Within the legislation special provision should be made for novelty vehicles like stretch limousines and vehicles which have more than eight seats or where the number of seats is disputable.

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 - all such archaic references need to be removed from 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. (Page 167)

Whilst we agree that the Secretary of State should issue guidance we believe that licensing of said vehicles should be under the remit of the local authority.

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 'course of a business of carrying passengers' will need to be defined carefully as 'business' does not exclude non-profit making activities. Voluntary drivers e.g. Hospital cars, Age concern voluntary drivers who give their time free but charge a nominal amount for petrol should be covered and clearly defined in legislation. Any/all exemptions must be carefully considered to avoid exploitation by unscrupulous individuals who undermine the good work of the many volunteers.

Question 9

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

(a) carpooling; and

This should be exempt if there is no hiring of a driver.

(b) members clubs? (Page 170)

This could be covered by permit under section 19 Road Transport Act 1985 See concerns in 8 above.

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 proposal as written will allow for loopholes in future times, standards should be national negating the need for exceptions from either category.

Provisional proposal 11

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

Care should be taken not to unnecessarily over burden a particular legitimate trade activity. However, we can see no reason why dedicated funeral and wedding vehicles should not be registered with a local authority.

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)

Legislation needs to be specific as to what is or isn't exempt as current legislation and Department for Transport guidance has failed to offer any assistance. Drivers and their vehicles must be regulated to ensure public safety, why should a contract exempt anyone or any vehicle when they are being hired for reward.

In fact many social services contracts include the transportation of vulnerable adults and children, We would argue that those that transport this group should have extra training in how to cope in difficult situations e.g. seizure, fitting.

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 providing that clarification on when, where and how pre-bookings are made.

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)

We do not see the need for an obligatory shuttle service, but believe that airports should not be permitted to levy charges for brief pick up and set down periods.

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 definitive meaning of 'plying for hire' and what is not 'plying for hire' would make enforcement easier and enable a simple explanation of the difference between 'plying for hire' and 'touting'.

Provisional proposal 16

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

Engaging of licensed vehicles should be permitted by any means and particularly new technologies.

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 feel that there would be any advantage as this phrase could conceivably apply to immediate private hiring.

Provisional proposal 18

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

We believe this should be retained with a workable definition of what constitutes reasonable cause for refusal, which would afford protection for the majority of customers.

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)

If a two tier system is maintained then so should the pre-booking distinction

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 should stick to the current definition 'once a taxi/ph vehicle always a taxi/ph vehicle', which can only be driven by a licensed driver. Public safety is paramount so why provide a perfect cover for someone to use a taxi/ph vehicle for an ulterior motive. The public must have confidence in the licensing system that seeks to protect them; they should be able to enter a taxi/ph vehicle in the knowledge that it is a licensed vehicle with a licensed 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)

Any statutory guidance must have the force of law in order to be meaningful.

Provisional proposal 22

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

Whilst it should be recognised that taxi is a common generic term used by the general public to refer to any hired vehicle, we feel 'hackney carriage' has no modern meaning and should be removed.

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)

In a two tier system, advertising of private hire vehicles must not be allowed to use terms which refer to a different type of hire vehicle.

A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

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

Yes there should be an equally high standard for both categories of services.

Provisional proposal 25

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

Local authorities should have the ability to impose higher standards where this is required.

Provisional proposal 26

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

Private hire services should have the same minimum standards with local authorities having the ability to impose higher standards where necessary.

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 do not believe that customers pre-booking private hire vehicles should be subjected to a poorer standard of 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)

In a two-tier system, the public should be protected by the ability of the local licensing authority to set standards and conditions for private hire services in recognition of local circumstances. This ability is not limited to local signage (which should clearly distinguish between taxis and private hire vehicles), but should cover also advertising, vehicle age, maintenance periods and inspection, and also fare regulation (see our response to PP 43).

Question 29

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

The main obstacle would be achieving majority agreement on national standards at consultation.

Question 30

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

There is no real difference in the activities of taxi and private hire drivers, so there should not be any difference in the standard.

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 standards need to cover not only the safety of vehicles but also the safety of passengers and should be consistent in England and Wales, with the ability of local authorities to impose higher standards were it is required.

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.

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 technical advisory panel would need to take into account a lot of regional variation in current standards and those regional variations should be removed in favour of a national standard.

Provisional proposal 34

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

Local conditions may require variance from a national standard for all licensed vehicles including private hire.

Question 35

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

No, see 34 above.

Question 36

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

It may be that conditions need to be specific to a particular licence and this needs to be decided at a local level, by the local authority.

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 arrangements would be much stronger than local arrangement and make control of illegal practices easier.

Provisional proposal 38

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

Combining areas could increase uniformity and may reduce illegal activity, a statutory process for such proposals is required.

Provisional proposal 39

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

Yes, and this could be advantageous in some cases due regional variation.

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 would have no practical value within this Authority.

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)

Operators of all licensed vehicles should be able to provide the best customer service, provided only licensed vehicles are despatched.

Provisional proposal 42

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

Vehicles should not be allowed to loiter in areas where they are not licensed unless the driver can show proof of a new booking.

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)

Licensing authorities should retain the ability to set fares for licensed vehicles creating a benchmark in which consumers can have confidence. We believe that a maximum fare should apply to taxis and private hire vehicles on which operators have the ability to offer discounts. Local Authorities should have the option to require the fitting of meters to private hire vehicles where they consider it is appropriate. The reason for this is that the reality of the situation is that in many cases the customer does not negotiate a price with the operator of the private hire vehicle, but assumes, on entering the hired vehicle, that the fare will not exceed that stated on the meter. We therefore consider that the local licensing authority, having regard to its local circumstances, and in order to give the customer additional protection, should have the ability to impose a condition requiring any fare that is not negotiated in advance with the operator to be no more than that shown on the meter. (This would in effect require most phvs to be metered.)

Question 44

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

No drivers should be able to charge more than the maximum fare allowable.

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)

These standards should be set out in primary legislation, but there should be provision for local authorities to set higher local 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)

The same tests as driver fitness are necessary. Experience has shown that a vehicle owner can commit offences under current legislation and needs to have the right to benefit from a UK business.

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)

See 45 above.

Provisional proposal 48

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

The control of proper record keeping for all licensed vehicles is essential to monitoring of compliance with other aspects of legislation such as Road Traffic Act and insurance requirements. Operators should have increased responsibility for their drivers whether they are self employed or direct labour, particularly with regard to the working time directive with the installation of tacho graphs to ensure drivers do not fall asleep at the wheel thereby endangering the lives of their passengers and other road users.

Question 49

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

Licensing of taxi radio circuits would only regulate pre-booked journeys leaving the rest of the taxi business less regulated. All licensed drivers should be required register all hirings not just pre-booked journeys.

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, because they have access to personal data and need the right to benefit from a UK business.

Provisional proposal 52

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

Services should be sub-contracted only to other licensed operators.

Question 53

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

All licensed drivers should record all hirings which will assist them in the keeping of proper account keeping and resolution of complaints.

REFORMING QUANTITY CONTROLS

Provisional proposal 54

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

If numbers were unrestricted they will eventually be regulated by market forces. Local Authorities should continue to have the power to restrict numbers as they are best placed to assess the local environmental conditions such as the contribution to extra pollution and congestion. There should also be the facility to allow increased numbers of disabled access vehicles.

Question 55

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

At the point of de-restriction there are likely to be a large number of applications for new licences and there is likely to be an imbalance of supply and demand until market forces take effect. The extra vehicles licensed will contribute to an increase in pollution whilst standing for longer periods

waiting for fewer customers. Ultimately, this should result in weaker businesses becoming economically unviable.

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)

If de-restriction were imposed this authority would prefer a phased implementation.

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)

Passengers with disabilities are not necessarily wheelchair users and all should be offered the same service and choice as any other person. Some wheelchair users prefer to be carried in standard vehicles which do not highlight disability

Question 58

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

The administrative cost is the same for any vehicle, so any reduction in licence fee would require a funding supplement from another part of local authority income.

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 may be that there should be a statutory requirement that all newly licensed vehicles should be accessible.

Provisional proposal 60

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

If availability of wheelchair accessible vehicles is perceived to be a problem, why aren't the provisions of the Equality Act being activated?

Provisional proposal 61

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

Bournemouth has a mandatory requirement for all drivers to hold a nationally recognised qualification which includes disability awareness training. This training could be included in the national standard

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 information is on the fare chart which is required to be displayed in all taxis and private hire vehicles. Conditions requiring the availability of complaint/complement cards should be readily available in each vehicle for completion by the passenger for submission to the council. The benefit of such a scheme would be to help the Council to monitor customer satisfaction.

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)

I can only see this being enforced with test hiring which is difficult without volunteers. Information should be given to disabled persons on what to expect, what to note when a fare is refused and how to complain, with removal or suspension of the drivers and vehicle licence where on the balance of probability guilt is proven. See 62

REFORMING ENFORCEMENT

Question 64

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

Yes and once stationary the licensing officer should have the power to detain the vehicle and driver while investigations are carried out.

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)

Touting is an offence under section 167 of Criminal Justice and Public Order Act 1994 and should be dealt with by police officers.

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, provided that proper storage and security is available.

Question 67

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

Fixed penalty notices are already issued for parking and smoking offences, this could be extended to include other offences and breaches of licence conditions which are beyond dispute.

Provisional proposal 68

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

These powers are essential if the other proposals as a whole are to be workable.

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)

Matters where suspension or revocation, need to be considered should be referred to the issuing authority. Alternatively, where the undisputed offence takes place in a particular area the suspension notice should be issued with evidence given to the issuing authorities, who are then obliged to take enforcement action including revocation or suspension.

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 right to appeal of 'any person aggrieved' is too vague as a person could be aggrieved without a decision affecting them in any material way.

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)

In Bournemouth such decisions are made at a committee of elected members where a person can appear in order to have fair hearing. Therefore, no further consideration is appropriate.

Provisional proposal 72

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

The magistrates' court is a reasonable forum for appeals against decisions to be heard.

Question 73

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

There should always be some route for a matter to be considered by the higher courts including Crown, Courts of Appeal and Judicial Review

From: irfan [REDACTED]
Sent: 06 September 2012 10:23
To: TPH
Subject: Subject: Consultation Paper No 203
Dear Sirs

I am writing in response to your consultations into the taxi and private hire trade.

Having read your 73 proposals my answers are as follows:

1. Agree with retaining two tier system.
2. Agree to London being included, with modifications.
3. No vehicle type restriction - onus on Local Authority..
4. Agree with restricting vehicles to those that require a driving license.
5. Agree with excluding PSV and including vehicles seating up to 8 passengers.
6. Non-committal about references to stage coaches.
7. Disagree with statutory guidance about novelty vehicles.
8. Disagree with excluding volunteers from legislation.
9. Disagree with including (a) car pooling and (b) members clubs.
10. Disagree with making exclusions to national standards.
11. Agree that weddings and funerals should no longer be excluded.
12. Disagree with reintroducing the contract exemption.
13. Disagree, keep scope of engaging with public to "streets".
14. No special provision in respect of regulation at airports.
15. Agree with "plying for hire" being placed on a statutory footing.
16. Disagree that hailing and ranking should not cover technological means.
17. No advantages in adopting the Scottish approach to defining taxis.
18. Agree that the concept of compellability should be retained.
19. Agree that pre-booking is required for private hire vehicle.
20. Agree that non-professional use should be permitted.
21. No, Ministers should not have the power to issue statutory guidance.
22. No, should not refer to "hackney carriages" as "taxis".
23. No, private hire vehicles should not use terms such as "taxi" or "cab".
24. Yes to national safety requirements.
25. Yes, national safety standards should be minimum standards.
26. Yes, national safety standards should be mandatory.
27. Disagree, knowledge is a safety concern. 28. Agree with local standards for signage, but restrict top signs to hackneys. All vehicles not engaged in contract work should have metered fares fixed by Local Authority.
- 29.. No practical obstacles to common national safety standards.
30. No difference in safety standards between hackney and private hire.
31. Yes, the powers of Ministers to set standards should only relate to safety.
32. Yes, the powers of Ministers should be subject to statutory consultation.
33. Yes, a statutory requirement to refer to a technical advisory panel.
34. Yes, licensing authorities should retain the power to raise standards.
35. Yes, statutory limits to licensing authorities' ability to set local standards.
36. Yes, licensing authorities retain the power to impose conditions.
37. No, cooperation between licensing authorities is best left to local arrangements. 38. No combining of local areas for the purposes of taxi standard setting.
39. No, licensing authorities should not have an option on taxi zones.
40. No peak time licences.
41. No, keep restrictions on private hire operators to their locality.
42. Disagree, vehicles should return to their area.
43. Local authorities should regulate maximum fares in all vehicles.
44. Yes, there might be out of town fees for parking and congestion charges.
45. National driver safety standards should be set out in primary legislation.

46. Disagree, the First Proprietor should be subject to "fit and proper" tests.
47. National vehicle safety standards should be set out in primary legislation.
48. Yes, operator licensing should be mandatory for private hire vehicles.
49. No, operator licensing not extended to cover taxi radio circuits.
50. Agree, the definition of operators not extended to include intermediaries.
51. Yes, the "fit and proper" criteria in respect of operators retained.
52. No, operators should not be expressly permitted to sub-contract services.
53. No to keeping records of journeys pre-booked with hackneys.
54. Disagree, licensing authorities should retain the power to limit numbers.
55. In Cambridge the licensing authority stopped restricting numbers, and it lead directly to over-ranking, pollution, congestion, and drivers working longer and unsafe hours.
56. No removal of quantity restrictions.
57. (1) No, all customers have equal priority. (2) No, the requirement already exists.
- 58.. No, there should be no reduced license fee for accessible vehicles.
59. The differing needs of passengers can only be met by providing a range of vehicle types.
60. Agree with no national quotas of wheelchair accessible vehicles.
61. Agree that all drivers should have disability awareness training.
62. Agree with displaying information about complaint procedures.
63. No, the obligation to stop for any customer already exists.
64. Yes, licensing officers should have the power to stop vehicles.
65. Better signage on private hires and better enforcement along with greater public awareness.
66. No, it is impractical to introduce powers to impound vehicles.
67. No, licensing authorities should not use fixed penalty schemes.
68. Yes, but this does not imply agreement with mixing licenses from different authorities.
69. No, only the issuing authority should have the power to suspend or revoke a license.
70. No, the right to appeal should not be limited to the applicant or license holder.
71. Yes, a first appeal should require the licensing authority to reconsider.
72. Yes, appeals should continue to be heard in the magistrates' court.
73. Yes, there should be an onward right of appeal to the Crown Court.

Yours faithfully,

Mohammed Irfan

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.

ALAN M. FAWCETT

(A.M. and E.E. Fawcett, E.A. & A.M. Western)

Funeral Directors

120 Kellet Road, Carnforth, Lancs. LA5 9LS.

also at: 71/73 Main Road, Bolton le Sands, Carnforth, Lancs. LA5 8DL.



Dip. F.D.



Re: Reforming the law of Taxi and Private Hire Services. **(Consultation Document).**

I express my opposition, on behalf of us all at the small family firm of funeral directors of which I am a partner, to Proposal No. 11 of the above consultation document that “*Weddings and Funerals should no longer be expressly excluded from private hire licensing through primary legislation (Page 172).*”

My main points of objection and concern are:

- ◆The costs of removing this exemption for funeral limousines and the red tape involved would prove prohibitive to the many smaller funeral firms which form an integral part of the tradition of funeral arrangements in this country. The Funeral profession remains, thank goodness, one of the services in which small localised funeral directors provide a large part of the business rather than a small number of very large firms.
- ◆Funeral limousines are high cost vehicles and, by their very nature, are limited to their ceremonial use: a very narrow spectrum, which, proportionally, is a massive outlay for funeral directors, particularly the smaller firms. Drivers of funeral vehicles are also normally bearers with a knowledge of the etiquette and requirements of the funeral profession.
- ◆The regulation to bring funeral limousines into the bracket of ordinary private hire and taxis would also mean many traditional funeral limousines could not be adapted to meet rules which are not intended to apply to such specialist vehicles.
- ◆The use of a funeral limousine is only a *part* of the funeral supply itself, not a separate transaction. The provision of the whole of a funeral is the main transaction, so it is most inappropriate to class funeral vehicles alongside taxis and mini cabs, which are hailed from the street or called for when required and are, essentially, the main or sole service provided to the customer.
- ◆Increased regulation and red tape is one of the main reasons for lack of incentive and venture in business, resulting in more firms and businesses giving up the unequal struggle, creating further unemployment, reducing revenue and putting more pressure on the benefits system.
- ◆I strongly feel that this proposal would force many funeral firms to abandon ownership of limousines and force many families to use their own (and usually smaller) vehicles for travelling with their loved one to a burial or cremation: resulting in having more separate family vehicles on the road, with the stress of driving themselves at what is usually a highly emotional time. This makes me question environmental issues affected by increased use of cars, carrying smaller numbers of people, thus creating more pressure on parking spaces at crematoria and cemeteries and on the roadsides.

Andrew M. Western
on behalf of Alan M. Fawcett, Funeral Directors,
120 Kellet Road,
Carnforth,
Lancashire.
6th. September, 2012.

SOLIHULL METROPOLITAN BOROUGH COUNCIL

Law Commissions Proposal to Reform Taxi and Private Hire Services

Question 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.

There seems little need to retain a two tier system – it has no value in today's modern society and is of no interest to members of the general public. The public only wish to 'hail' a licensed vehicle and driver which they know are safe. The argument sometime put forward that by retaining a two tier system, the consumer has greater choice, is without merit and usually put forward by those opposed to change and modernisation. It is the number of vehicles/ drivers available and their quality that creates the level playing fields and it is this which gives greater choice to the customer, not the title of the licence, or the rules relating to its use.

There is no doubt by introducing a single tier taxi system, a sizeable transitional task will need to be undertaken, but the time is right for such a challenge. There is a need to create a system that meets the needs of consumers in the twenty first century and does not just protect the traditionalists, or those with the loudest voice.

Change should not be avoided just because of the size of the task it is presented, if that were the case, progress would never be made. A single tier taxi licensing system with proper safety measure incorporated is needed now and in the future, to meet the needs of an ever changing and modern society. A simple single tier taxi system, similar to that which functions in many countries around the world is needed for the benefit of the general public, the trade and the regulators.

Question 2

London should be included with appropriate modifications within the scope of reform.

Our view is that a national system is preferable to create genuine modernisation and simplification and this should include London and all other large cities. However, it is accepted that London has a particular and special national and international image which it may wish to retain for tourism and publicity purposes. Albeit this may satisfy the politicians the tourist industry and the London black cab trade, there would be little genuine advantage to members of the public.

Question 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.

There should be no restrictions in respect of any particular type of vehicle which is capable of being licensed, provided the appropriate safety measures are in place. However, proper guidelines in respect of safety matters will need to be published.

Question 4

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

No.

Question 5

Public Services 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.

Public Service vehicles must be entirely separate from any taxi licensing system and there is little value in trying to combine the licensing of taxis and PSV's. To do so could create more difficulties than at present exist.

Question 6

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

Any new taxi licensing system must be sufficiently clear to avoid confusion with other licensing regimes and therefore references to stage coaches does not seem to sit well within the definition of taxis.

Question 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.

Yes, statutory guidance should be issued in respect of licensing limousines/novelty vehicles to clarify this difficult and ambiguous area of regulation.

Question 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 is potential for such exclusions to be abused unless a proper definition is developed as to what is or is not meant by 'In the course of trade or business'.

Question 9

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

- (a) ***Car pooling and***
- (b) ***Members clubs***

Car pooling should not form part of any new taxi licensing system. Members clubs are something different and could cause concern if exempted, due to the possible abuse of the system that may take develop through the creation of bogus clubs.

Question 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 purpose of this consultation is to create and modernise taxi system that works well in a more simplified way. Hopefully there will not be a need for ministers to amend or alter standards (unless absolutely essential and then only after consultation). To do so could again create a lack of consistency eventually leading to a confused system – as currently exists.

Question 11

Weddings and funerals should no longer be expressly excluded from Private Hire Licensing through primary legislation.

We are not aware of any issues involving funeral or wedding cars and can see no reason why they should be included in any taxi licensing system.

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.

There is no merit in reintroducing the contract exemptions.

Question 13

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

Agreed – There is a need to create a new definition and move towards places to which the public have access.

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.

Question 15

A 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 - a non-legal non-exhaustive definition of plying for hire should be created, however by the development of a new single tier system additional complexity and definitions in respect of private hire vehicles would not be necessary.

Question 16

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

Agreed.

Question 17

Would there be advantages in adopting the Scottish approach to defining taxis in respect of 'Arrangements made in a public place' instead of plying for hire.

Yes.

Question 18

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

Yes – should be applied to all taxis in the new system.

Question 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.

A modernised and simplified single tier taxi licensing system will not require consideration of this point.

Question 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.

No – this would create enforcement difficulties and no doubt lead to abuse of the system thereby creating an unnecessary risk to the public.

Question 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.

Yes.

Question 22

Reformed legislation should refer to taxis and private hire vehicles respectively. References to hackney Carriages should be abandoned.

A single tier licensing system if introduced will remove the need for this consideration. A single reference to taxis would then be sufficient to meet the needs of all concerned in a modern society.

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.

Yes – through the creation of a single tier licensing system all licensed vehicles would be known as taxis and be enabled to use that terminology.

Question 24

Taxi and private hire services should each be subject to national safety requirements.

Yes – every licensed vehicle in any single or dual system should be regulated by a national safety standard. Such a standard should start from the best of existing safety levels as opposed to being lowered to the lowest common denominator.

Question 25

National Safety Standards as applied to taxi services should only be minimum standard.

No – Standards need to be raised and maintained at a reasonably high level. There is a danger that if a minimal standard is acceptable in one area and a higher standard is applied in another area, the path of least resistance will be taken by those seeking a licence and a difficult regulatory system could result.

Question 26

National Safety Standards as applied to private hire services, should be mandatory standards.

Yes – Any national safety standard must be mandatory and of a high standard. They must be unambiguous and enforceable.

Question 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.

National safety standards must be applied across the board to all licensed drivers. The creation of a single tier licensing system would eradicate the need for further definition/regulation with specific reference to private hire vehicles and drivers.

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 or private hire vehicles are valuable?

Yes – but in respect of all licensed vehicles in a taxi system. However, this additional consideration for private hire vehicles alone, is an unnecessary consideration within a single tier system.

Question 29

What practical obstacles might there be to setting common national safety standards for both taxi and private hire vehicles.

All licensed vehicles should be tested at approved MOT testing stations to the national standards in an area where they predominantly work, with the licensing of vehicles and drivers being required within the area where the driver predominantly works. There is a danger however that some areas with large licensed vehicle fleet, may not receive sufficient income from licence fees, to meet the needs of their regulatory function.

Question 30

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

No.

Question 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.

Question 32

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

Consultation is desirable but efforts should be directed towards the public asking what is advantageous and appropriate for the customer, as opposed to the commercial needs of the 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?

Yes this would avoid undue commercial influence and ensure what is essentially required as opposed – ‘nice to have’.

Question 34

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

One of the objectives of this consultation is to consider national standards and to modernise and clarify old ambiguous legislation. If local authorities were allowed to introduce their own local differences in standards, confusion to the system will be introduced.

Question 35

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

Yes through the creation of varying standards any national system would soon cease to be a national system and be undermined from the outset.

Question 36

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

Yes - Local control over licensed drivers should be retained. With regards to operators an improved and more rigorous system of licensing is needed similar to that imposed on PSV & HGV operators. Operators must be held responsible for their drivers, with the local authority authorised to impose sanctions as appropriate.

Question 37

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

Co-operation between authorities should be on a statutory footing.

Question 38

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

Yes.

Question 39

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

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?

Yes.

Question 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.

Existing private hire operators are already able to accept bookings from outside their licensed district, but must use drivers and vehicles licensed within that district. This restriction should be removed and could be done so by the introduction of a properly managed single tier taxi licensing system.

Question 42

We do not propose to introduce a 'return to area' requirement in respect of out of area drop offs.

At present there is no need for a driver to return to an area or base after a drop off, however where operators have many drivers and insufficient work, some of these drivers may seek to supplement their income by working illegally in other areas. The solution to the problem is a single tier taxi system that ensures all drivers and vehicles act lawfully wherever they are and this will go some way to keeping the drivers and the public safe and properly insured.

Question 43

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

Yes – but licensing authorities should also be authorised to regulate maximum private hire fares.

Question 44

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

No.

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 fit and proper person test should be set down in legislation.

Question 46

Vehicle owners should not be subject to fit and proper tests and the criteria applied would relate solely to the vehicle itself.

No.

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.***

National vehicle safety standards should be set out in primary legislation.

Question 48

Operator licensing should be retained as mandatory in respect of private hire vehicles.

Yes - If a two tier licensing system is to be retained then, it is essential that private hire operators be licensed.

Question 49

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

Yes – all those involved in ‘operating’ a taxi system should be licensed and required to retain proper records of the business to ensure a level playing field within the system. Such regulation would also encourage more accurate financial returns being made by operators and vehicle owners/drivers.

Question 50

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

No.

Question 51

Should ‘fit and proper’ criteria in respect of operators be retained?

Yes.

Question 52

Operators should be expressly permitted to subcontract services.

Yes – but with proper records being required for all parties concerned.

Question 53

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

Yes – this would also encourage more accurate financial returns being made by all drivers and improve financial regulation.

Question 54

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

Disagree. This power should be retained by local authorities, for use under prescribed conditions.

Question 55

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

In certain areas, particularly large cities, there could be congestion, lack of ranking space, difficulty in proper regulation of large numbers of vehicles and drivers, possibly lack of resources, too many drivers chasing too few jobs 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?

Yes.

Question 57

Should there be a separate licensed 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 the ranks for wheelchair accessible vehicles***

We agree with the proposition that there should be a separate licensing category for wheelchair accessible vehicles with a duty to give priority to disabled persons. We agree that the licensing authority should make provision for wheelchair accessible vehicles at ranks.

Question 58

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

Yes.

Question 59

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

Restrictions on the busier ranks to wheelchair accessible vehicles at certain times may assist the situation – a reduced licensing fee for this particular type of licence

Question 60

We do not propose to introduce national quotas of wheelchair accessible vehicles.

Agree.

Question 61

National standards for both taxi and private hire vehicles should include recognised disability awareness training.

Agree

Question 62

In order to better address concerns about discrimination, taxi and private hire vehicles should be required to display information about how to complain to the licensing authority.

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?

Yes – but in the absence of evidence to show that the driver deliberately failed to stop, it is unlikely that the problem will be addressed. Where there is a reasonable probability that the occurrence took place, local authorities could if authorised sanction the individual by way of a penalty notice or suspension of licence.

Question 64

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

Yes – but there are great safety related matters related to such an authority. It may be better to authorise a licensing officer to detain and direct a vehicle to a particular location, once stopped by a police officer, as opposed to a licensing officer interfering with the normal traffic flow.

Proposal 65

What 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'.

This is not a problem experienced in our area; however, we believe that touts generally work for an operator on a casual basis to boost the operators business. It seems sensible therefore that the operator should be sanctioned. It should be noted that many areas operate a 'taxi' marshalling scheme and any future definition of touting must avoid confusion with this valuable activity.

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 would be a very useful tool for regulators, particularly where a vehicle is found to be uninsured. Storage of such vehicles could be an issue, but through other arrangements an independent contractor could 'hold' the vehicle, only to be release on production of appropriate documentation and payment of a reasonable penalty.

Question 67

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

Yes – the issue of fixed penalty notices will greatly reduce the need for prosecutions and other unnecessary bureaucratic processes, which can be costly and very time consuming.

Question 68

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

Yes – this is a good idea, but would only be workable if national standards and conditions were introduced. Ideally transgression could be dealt with by way of a fixed penalty notice to avoid the cost of prosecutions.

Question 69

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

The initial idea in theory is a good one, but the practicalities and potential costs of managing such a system, could prove prohibitive and create an unnecessary bureaucratic burden.

Question 70

The right of 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.

Yes

Question 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.

No

Question 72

Appeals should continue to be heard in the magistrates' court

Yes – but in lodging an appeal, the required fee must also be paid at the time. If the fee is not paid then it should not be considered that an appeal has been made.

Question 73

Should there be an onward right of appeal to the crown court.

Yes – this seems to be a necessary safeguard within the system. However, where an appeal to crown court is made and then withdrawn before the hearing, any costs incurred by the authority in preparing to defend the appeal, should be claimed back from the appellant.

From: Eynon, Dave [REDACTED]
Sent: 06 September 2012 11:14
To: TPH
Subject: Wedding car legislation
Dear Sir / Madam,

This is of concern to me as I had hoped to create a small part time business combining my passion for classic cars with a wedding / special occasion service. I never expected this to provide significant mileage and therefore an annual MOT would be sufficient to ensure the car was roadworthy. If this review of the legislation for taxis sweeps up the classic car trade it may make my small business venture impossible.

Kind Regards,

Dave

D Eynon
Plant Manager

[REDACTED]

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Email to hanna.grey@lawcommission.gov.uk

Dear Ms Grey,

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 part of the national transport system. They are not taxis or mini cabs and to suggest that they should be regarded as such is without logic. 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: An Introduction

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 business 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. Our small family business is based on a left hand drive French built 1930 vintage landaulette which I drive and maintain myself. My wife takes the bookings and decorates the car differently for each wedding to suit the themed colour choices of each bride. Each wedding that we undertake is special, as is each bridal couple.

The car when not in use is dry stored and in the winter months 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 is common to most historic cars and 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. A Basic CRB check is available for the self employed but I have never been asked to show one. The reason being is that family firms have a known address, that the driver is typically the owner and that the client and business owners have met and have exchanged written contracts with permanent addresses and other contact details. On this procedure is our reputation built and trust engendered.

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, in my experience my car and myself are in the wedding album of every family by whom we have been booked and in the photographic record of many many wedding guests and passers by. The latter must be the case because we have bookings from clients who have seen us at previous weddings

Personal recommendation is key to success and we know that all is well when the happy couple take time from their guests to personally thank us and write letters of thanks after their big day.

Impact of removal of exclusion from private hire licensing.

This 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. I cannot see the situation where I take the bride and her escort to church and during the marriage ceremony I have a booking from an operator to pick up a fee from the local shops. Then after the wedding reception take someone to the pub or dog track. We undertake one wedding per day and there is only one Saturday in a week. There are very few mid week weddings.

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.

I can only speak from experience. I have worked with third party wedding support vehicles that have included the following:

- Private cars owned by the client's family/friends

- Bentley saloons as wedding cars.

- Self drive Minibuses

- Eight seater stretched limousines and minibuses both as private hire

- Sixteen seater stretched limousines and Fifty four seater coaches both as public service

I have yet to come across a Hackney Carriage in this role, perhaps there are very few rural areas.

The private hire and public service vehicles which I have encountered at weddings were on a tight time table and were clearly booked to do other contracts after the weddings.

The private hire eight seater minibuses and stretched limousines clearly have main duties such as social outings and the nightclub scene. The coaches have holiday travel and day trips duties and the larger stretched limousines plated as public service would be ideal for hen parties and nightclubs.

Try as I might I cannot see my vintage car in any of these additional roles.

I have phoned several local licensing authorities as to the age of vehicles they would consider for private hire plating. Typically a car five to six years old, on first application, is considered old.

An eighty two years old left hand drive car without seat belts, would be beyond the pale. How would an historic car fare if forced to be licensed as private hire vehicles? What compensation is planned for businesses forced to close?

I am given to understand that 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. I was told by one test inspector that some of these vehicles can cover some seventy to ninety thousand miles per year.

I put it to you, that to put a vintage car that does a maximum of one and a half to two thousand miles per year through such a system is grossly disproportionate especially as you, the Law Commission, are strangely silent on national standards for Voluntary Drivers.

The Voluntary Drivers Sector

No national standards are proposed for this 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 exercised about the few tens of thousands of wedding car miles per annum?

Customs and Revenue tabulate to twenty thousand miles per annum as an upper mileage for voluntary drivers. There are no national standards requiring Health Checks, CRB Checks, Special Driving Tests regular Vehicle Safety and Condition Checks. These drivers only carry the the sick, the young and the elderly and in cars, driven in the main, by retired people.

A person with a cynical turn of mind might think the silence on the Voluntary Driver Sector could be political. I am minded to think of it as an oversight. Just as I am minded to think that the proposal that weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation is mistaken. My M.P. is also so minded. You cannot recommend one without the other.

Criterion 4: Accessibility of consultation exercise

This criterion has not been achieved. We and others in the wedding car business only heard of this via third parties in the taxi and minicab business. Insurance companies were also not part of the consultation process. Many wedding car businesses are still unaware of this consultation paper.

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 that lacked flow and logical progression.

Conclusion

Total lack of consultation with the Wedding Car Hire Sector, especially those involving Vintage Cars

Total failure in understanding the impossibility of 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.

Therefore:- Provisional proposal 11 should be removed from from the document.

It was not raised as an issue by government so why add cost, complexity, red tape to a small sector that is going about its business without this kind of proposed regulation. The Voluntary Driver Sector is however large and Freedom of Information Act requests about the number of drivers driving 10,000 miles and more is beginning to make interesting reading.

Yours sincerely,

G Boxley

PUBLIC PROTECTION COMMITTEE

4th September 2012

Submitted by: **Head of Central Services**

Purpose

To inform the Committee of the views of their officers concerning the Law Commissions Consultation on Reforming the Law of Taxi and Private Hire Services.

1. **Background**

1.1 The Law Commission are currently consulting Local Authorities about reviewing Private Hire and Hackney Carriages.

The Terms of Reference are as follows:

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 de-regulation in reducing the burdens on business.

The process for consultation requires the Council to study the Consultation Document and make a response to the Law Commission by 10th September 2012.

Your officers have studied the document and have concluded that the following responses reflect the views of your officers.

Provisional Proposal (PP) (1) Agree – as it maintains a competitive market and provides choice for the public.

PP (2) Agree – it would be illogical to differentiate between various parts of the Country.

PP (3) Maintain that only motor cars (and at a later date drivers of stretch limousines subject to appropriate conditions and regulations) be restricted to the regime.

Question (Q) (4) Yes – as there are and would be set standards i.e. medicals and passing a driving test.

PP (5) Agree.

PP (6) – That the current situation be maintained and that stagecoaches are not included with the exclusions.

PP (7) – We accept that stretch limousines and novelty vehicles can be licensed – however, guidance should be issued to whoever licences them. Drivers of Stretch limousines should be licensed at local level but stretch limousines and novelty vehicles should be licensed by the Traffic Commissioner.

PP (8) – The proposal be agreed to and maintain the current position.

PP (9) – This should not be included in the regulation. Local authorities should not be involved.

PP (10) – Whatever the Secretary of State determines is OK. He should be able to make decisions i.e. national exclusions.

PP (11) – These vehicles should be included in the licensing regime as they regularly carry members of the public.

PP (12) – It is considered there are no merits in re-introducing the contract exemption.

PP (13) – It was agreed that engaging with the public should not be limited to streets.

Q (14) – Your officers had no views to this question.

PP (15) – The proposal was agreeable, in that anything that assists in enforcement and the concept of plying for hire should be put on a statutory footing in order to facilitate enforcement.

PP (16) – Agreed the proposal in that the critical factor regarding pre-booking is the method of engagement not the speed.

Q (17) – We see the advantages of adopting the Scottish definition but have concerns about the definition of a Public Place and consider that this should be tightened up with regards to “should not be limited to streets”.

PP (18) – Compellability should be retained.

PP (19) – Yes – pre booking should continue to be the only method.

PP (20) – Disagree with the proposal and feel that the status quo should remain – reason – there would inevitably be enforcement issues arising.

PP (21) – Agree the Secretary of State and Government Ministers should have the power.

PP (22) – Disagree – the term hackney carriage should remain.

Q (23) – No, private hire should not use the words taxi or cab – there should be no customer confusion, if the journey has not been pre-booked the driver should refuse.

PP (24) – Yes there should be national safety requirements.

PP (25) – Yes standards should be a minimum provided that local authorities maintain the ability to add additional higher standards.

PP (26) – Yes national safety standards should be mandatory.

PP (27) – Agree to national safety standards – but quality standards should be set at local level e.g. topographical test for drivers.

Q (28) – Yes and yes; however there should be national minimum standards relating to signage.

Q (29) – Problems would occur when national safety standards are implemented and have a financial cost to the proprietors.

Q (30) – Guidance should be sought from the H.S.E. or any other appropriate body. There may be differences between Hackney Carriages and Private Hire and both should be risk assessed.

PP (31) – Yes, but at a local level retain the power to add to any minimum conditions.

PP (32) – Yes, subject to Statutory Consultation.

Q (33) – By consultation with the proprietors of Hackney Carriages and Private Hire Vehicles and vehicle manufacturers, secondly there should be a requirement to refer to a technical advisory panel.

PP (34) – Yes, local authorities should retain the power.

Q (35) – No, there should be no statutory limit to set local taxi standards.

Q (36) – Yes, local authorities should retain the power to impose individual conditions.

Q (37) – It is best left to local arrangements.

PP (38) – Yes, authorities should have the option.

PP (39) – Yes, authorities should have the option to create or remove taxi zones within their area.

Q (40) – Yes with reservation – it would be useful, however it may present possible enforcement problems.

PP (41) – Agree that operators should not be restricted within a locality, however they should continue to only use vehicles and drivers licensed by the same authority that issued the Operators licence.

PP (42) – Agree no requirement needed.

PP (43) – Agree.

Q (44) – No.

Q (45) – Either of the options would be agreeable providing that the local authority retained the ability to exercise its discretion in individual circumstances.

PP (46) – Agree the proposal.

Q (47) – In relation to insurance cover standards should be in primary legislation.

PP (48) – Yes, should be retained as mandatory.

Q (49) – No – operator licensing should not be extended.

PP (50) – No – there should be no extension of the definition of operators.

Q (51) – Yes.

PP (52) – Yes – if acting outside its controlled district.

Q (53) – Yes – records should be kept.

PP (54) – Agreed.

Q (55) – Any compensation that becomes due should be payable by the Government.

Q (56) – No – market fees would dictate and manage sustainable growth.

Q (57) – Yes – 1) may be impractical; 2) good idea.

Q (58) – No lower fees.

Q (59) – By allowing a longer life of the licence and dedicated rank space.

PP (60) – It has been noted not to introduce national quota's – however, it is felt that in order to promote wheelchair accessible vehicles that in Newcastle's case this could be overcome by deregulation and the conditions of issuing licences.

PP (61) – Yes, agree to the proposal.

PP (62) – Logically yes; practically there may be problems as information inside the vehicle.

Q (63) – Again logically yes, however it may prove difficult to enforce.

Q (64) – Yes.

Q (65) – This question has no relevance for Newcastle.

Q (66) – It would be reasonable to have the power to impound vehicles, however the practicality of doing so may prove difficult.

Q (67) – The use of fixed penalties would be a useful tool in the local authorities armoury so long as primary legislation enabled it.

PP (68) – Yes, officers should have the power.

Q (69) – Yes – by legislation.

PP (70) – Agree to the proposal.

PP (71) – No – disagree.

PP (72) – Agree.

Q (73) – Agree.



LAW COMMISSION CONSULTATION TO REFORM THE LAW OF TAXI AND PRIVATE HIRE SERVICES

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*)

Response:

Agreed. There is currently nothing wrong with the existing two-tier system; however we agree that the legislation needs updating to bring greater consistency in standards. Whilst taxis and private hire vehicles are distinguishable and generally recognised by the public, regulation should be expanded to ensure the public realise that private hire vehicles are for pre-booked journeys only. Moving to a one-tier system would mean that ranks would become overcrowded and cause existing hackney carriage drivers to be disadvantaged by new competition from the private hire trade.

It is accepted however that a one-tier system could reduce customer confusion and possibly simplify enforcement and administration.

Reform of definitions and scope

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

Response:

Agreed. We do not believe that London should be treated any differently to any other town or city. If London desires to stay outside the licensing regime applicable to the rest of the country it should be required to justify why it should not meet the standard applicable elsewhere

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*)

Response:

Agreed. Persons taking responsibility for the hirer of their vehicle irrespective of type should be 'fit and proper' within the meaning of the 1976 Act and should not avoid scrutiny due to lack of a driver licence requirement (e.g. for rickshaws, horse drawn carriages etc).

Possession of a valid DVLA licence demonstrates that the individual has proved that he/she has a fundamental understanding of driving on a public highway etc and should be a requirement for all licensed vehicles as should the provision of insurance. Driver licences could be conditioned such that it clearly shows what type of vehicle a driver is allowed to operate.

Question 4 - Would there be (and if so what) advantage to restricting licensing to motor vehicles that require a driving licence

Response:

See proposal 3. Whilst restricting licensing to motor vehicles would undoubtedly be an easier system to operate, it would result in vehicles such as rickshaws, pedicabs, horse drawn carriages etc., falling outside of any licensing regime. It would be better to include all vehicles provided for hire with a driver and then set national standards and conditions for these type of vehicles to protect public safety.

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*)

Response:

Agreed. However we believe the licensing regimes should be closer aligned to ensure fairness and consistency e.g. PSV drivers should have CRB checks.

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

Response:

The use of the term 'stage coaches' should be removed from legislation as it is out dated and not applicable to modern 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*)

Response:

Agreed. Whilst this authority does licence limousines and would consider licensing other novelty vehicles to ensure passenger safety, not all authorities do. This means that some drivers do not have the 'fit and proper' test which we believe should apply to any driver of this type of vehicle. Similarly there should national standards for this type of vehicle set by Government.

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*)

Response:

Agreed. Requiring genuine volunteers to hold private hire licences (including a driver, vehicle and operator licence) seems excessively onerous and unnecessary. However the definition of volunteers should be clearly defined to determine who is 'genuine' and who may exploit the system by charging 'expenses' or 'mileage'.

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

- (a) carpooling: and
- (b) members clubs? (*page 170*)

Response:

- (a) Carpooling should be exempt from licensing as it encourages sharing vehicles and thus is environmentally friendly. There should not be any element of profit however.
- (b) Members clubs could be exempt but if there is any element of profit then they should be licensed.

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 regime (*page 171*)

Response:

We agree providing any exclusions only relate to different standards for different vehicle types. Different standards should not relate to different licensing areas.

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

Response:

We agree that wedding vehicles should be licensed as they are often used for other occasions such as stag and hen parties etc where the drivers should still have to submit to the 'fit and proper' test. However provision should be put in place regarding age etc as a lot of wedding cars are vintage.

Funeral cars should still fall outside of the licensing regime as they have a specific purpose and are not used for other transport functions.

Question 12 - Would there be merits in reintroducing the contract exemptions, 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*)

Response:

In general we see no merit in this as the whole reason of the repeal was to bring people into the licensing regime to enhance public safety. If the contract exemption were to be re-introduced it should be on a very limited basis with very strict criteria as to how it is applied.

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*)

Response:

Agreed . Regulation should not be limited to streets. We suggest that the new definition should be "within the district" and mean any place where there is free access to the public even if this is given by private land owners.

Question 14 - Is there a case for making a 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 (*page 177*)

Response:

We do not have an airport in our area which makes it difficult to comment. We do believe that customers should have easy access to airports by whichever taxi or private hire operator they use, however we understand that airports need to have controls over the transport services available on site.

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*)

Response:

We agree, however it would need to be a very clear definition so that it will be much easier for a licensing authority to take legal action against drivers who are acting illegally as under the current law it is very difficult to bring a case against someone believed to be illegally plying for hire.

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

Response:

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*)

Response:

There may be advantages to adopting this approach but the definition of “public place” needs to be carefully defined

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

Response:

We agree, unless the vehicle is not adequate for the customer, for example a non wheelchair accessible vehicle hailed by a wheelchair user

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*)

Response:

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.

Response:

We recognise that the concept of “once a taxi, always a taxi” does put families in a difficult position whereby the vehicle cannot be driven by an unlicensed taxi driver for purely social purposes. However changing the law will inevitably lead to enforcement issues as local authorities will have to prove/disprove when a vehicle was being driven for business purposes

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*)

Response:

We agree. There is a huge difference in standards across local authorities and statutory guidance would aid consistency. However the current DfT guidance is quite vague in areas and would need to be more specific if used as statutory guidance.

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

Response:

We agree, the reference to ‘hackney carriages’ is out dated and a term not understood by the general public.

Question 23 - Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided that they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion (*page 186*)

Response:

Using such terms in advertising probably wouldn’t lead to consumer confusion. Most customers tend to use the term ‘taxi’ regardless of whether it is a taxi or PHV. However signage must be limited to the body of the vehicle and clearly show ‘pre-booked’ only. There should be no roof signs on private hire vehicles. In short it must be easy for the consumer to know what vehicles they can hail in the street.

A REFORMED REGULATORY FRAMEWORK

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

Response:

We understand that some licensing authorities have very low licensing standards. Whilst therefore supporting the concept of national standards which would promote consistency we would be extremely unhappy if the high standards adopted by this authority were to be compromised

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

Response:

See response to proposal 24. Whilst supporting the concept of national standards, licensing authorities should also have a discretion to make additional requirements to address local need, e.g. this authority had the tragic murder of a taxi driver in 2007 which resulted in funding being obtained to equip every driver (both taxis and private hire vehicles) with CCTV cameras. This has now been adopted as a mandatory condition by this authority and has proved to be extremely successful and supported by both the trade and public alike. We would not wish to see this good work undone by the imposition of safety standards that do not meet our own.

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

Response:

See response to proposals 24 and 25. We believe there should be no difference in standards between taxis and private hire services as all are used to transport the travelling public. Further consultation should be carried out with local authorities regarding their conditions before any decision is made as to mandatory 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*)

Response:

We do not agree. We believe that topographical knowledge is a safety standard and that customers expect/need to know that drivers know routes and that they will be take the correct/shortest route for the journey they require. A customer would feel extremely unsafe and compromised if they felt the driver did not know the local area.

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*)

Response:

We believe it would be useful if there was a national template with local variation options. This would enable the public to easily identify a vehicle which was for pre-booked journeys only as they would know what to look for.

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

Response:

We do not see any obstacles although it would depend on the level of standard. There should be no difference in the level of standard between taxis and PHV's as there is no difference in risk.

Also it is important to remember that taxis undertake private hire work so the same standard should apply. Different standards may have to apply however, for different types of vehicles e.g. purpose built taxis, saloons and MPV's

Question 30 - Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (*Page 192*)

Response:

No not at all . The level of risk to drivers is potentially the same and both are concerned with transporting the public in similar situations. It was for this reason that CCTV was introduced to all licensed vehicles in this authority for example.

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*)

Response:

We agree. Local authorities should still have flexibility to set standards and conditions that are locally appropriate. National standards would improve consistency across local authorities and could perhaps be achieved by pools of 'model conditions' that authorities would have discretion over imposing.

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*)

Response:

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*)

Response:

We believe further consultation is necessary to assess what standards local authorities have in place before determining national standards. We are unsure what is meant by a 'technical advisory panel'?. Would a local authority be required to consult with this panel every time it wished to impose local conditions?

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

Response:

We agree for the reasons set out in the preceding responses

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

Response:

If clear guidance is in place regarding the setting of conditions as well as a pool of 'model conditions' then this will assist but there should not be statutory limits because this impedes an authorities capability to be innovative

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

Response:

Yes. Licensing authorities should retain powers relating to the control and effective accountability of licence holders within their area

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*)

Response:

We consider that this is best left for local arrangements where it is deemed necessary and appropriate

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

Response:

This could prove workable but only where neighbouring authorities have similar licensing conditions and the same ethos as to how enforcement should be effectively carried out, otherwise it could cause as many problems as it may solve.

Provisional proposal 39 - Licensing authorities should have the option to create, or remove, taxi zones within their area. (*Page 196*)

Response:

We are not a large enough authority for zoning to be a particular issue. However we do see that for some authorities this is a useful option

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*)

Response:

We do not agree with this proposal. We believe this could lead to enforcement issues should a driver with a peak time only licence try to trade at other times and would cause confusion to the public as which vehicles could be hired, when and where. Additionally we have no complaints from the public regarding non-availability of licensed vehicles and therefore perceive there is no need.

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*)

Response:

We do not agree. Under this proposal operators could employ drivers licensed from a number of other authorities. How could enforcement action be taken if an operator employs drivers or uses vehicles from a number of differing authorities?. Enforcement is much easier if all 3 licences are issued by the same authority. The present system is easy to understand for all. There is also an economical factor to be taken into account as operators, drivers and vehicles would inevitably seek to licence with the cheapest local authority provider. This could be solved by the introduction of statutory licence fees but for some authorities this would probably mean them operating at a loss rather than being cost neutral

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

Response:

The non-adoption of this proposal is a missed opportunity to deter illegal activity and will encourage out of area taxis/phv’s to ply for hire.

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)*

Response:

We agree

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

Response:

We do not agree. We do think that taxis should be required to retain details of pre-booked journeys as this would aid enforcement

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)*

Response:

Standards should be set out in primary legislation. A list of ‘relevant offences’ would be useful

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)*

Response:

All licence holders should be subject to the ‘fit and proper’ test. Under the present regime individuals who know they would be unlikely to obtain a driver licence because of convictions etc can still play an active role in the industry. By its very nature the taxi and private hire trade is a largely cash business, ensuring vehicle owners are ‘fit and proper’ is paramount to prevent criminality such as money laundering or fraud.

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)*

Response:

Basic safety standards should be set out in primary legislation but it should be for the local authority to have the ability to set additional standards if appropriate

Provisional proposal 48 - Operator licensing should be retained as mandatory in respect of private hire vehicles. *(Page 207)*

Response:

We strongly agree.

Question 49 - Should operator licensing be extended to cover taxi radio circuits and if so on what basis? *(Page 208)*

Response:

Yes, the requirement should be to keep a record of the booking in a similar format to that of operators to aid enforcement

Provisional proposal 50 - The definition of operators should not be extended in order to include intermediaries. *(Page 209)*

Response:

We are concerned over bookings made via the internet and would wish there to be a clear definition as to their responsibilities

Question 51 - Should "fit and proper" criteria in respect of operators be retained? *(Page 210)*

Response:

Yes. The duties associated with a private hire operator are implicitly linked with a duty to be responsible for the safety and security of passengers

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

Response:

We agree

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

Response:

Yes, records of pre-bookings should be kept in place and the requirement to produce to the licensing authority on request should be in place.

CHAPTER 17 – REFORMING QUANTITY CONTROLS

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

Response:

We agree. In our experience as many drivers have left the profession as have joined in recent years. However this may be that we have high standards regarding joining the trade so are not swamped with applications to become a driver as other authorities may be in this time of recession. The taxi trade will always complain that there are too many taxis but that is because they want numbers restricted so that they can sell their plate at great profit.

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

Response:

We do not know as we do not restrict numbers. However for those authorities that would be affected we suggest that the requirements to enter the trade in the first place should be stringent as they are in our authority i.e Street Knowledge Test, DSA test and other standards already covered by law

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*)

Response:

This would not apply to our authority

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*)

Response:

We broadly support this. However, in our experience operators will not licence wheelchair accessible vehicles of their own volition. We have tried various incentive schemes and it has not worked thus we have now had to introduce a requirement that all newly licensed taxis will be wheelchair accessible and all existing vehicle licences will need to be wheelchair accessible in five years time. We are working on a wheelchair accessible taxi rank only to ensure adequate provision for these types of vehicles due to the issue of loading wheelchairs from our existing rank.

Question 58 - Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? (*Page 217*)

Response:

As licence fees should be set on a cost recovery basis offering discounts could result in a shortfall of funds for the authority. In any case our fees are low anyway so any discount offered to would not be that attractive.

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)*

Response:

Provision should always be made for saloon cars as well as wheelchair accessible vehicles as the ambient disabled prefer them. We are currently investigating signage of vehicles to be in Braille and we believe that there should be training available to assist drivers who transport passengers who may have behavioural problems e.g. autism.

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

Response:

We agree as we think national quotas are unworkable.

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

Response:

We agree. About 75% of our drivers have voluntarily achieved a level 2 NVQ in road passenger driving and all drivers have a DSA test but we would welcome national standards to be applied

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)*

Response:

We agree although all licensed vehicles within this authority already carry this information

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)*

Response:

This would be impossible to enforce. Evidence to assert that a driver has seen a potential hirer and potentially chosen to ignore that hire would be very difficult to acquire. Additionally officers would need to prove that it was reasonable and safe for a taxi to stop if a driver ignored a disabled passenger hailing them.

CHAPTER 19 – REFORMING ENFORCEMENT

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

Response:

It would be useful for licensing officers to have the power to stop all licensed vehicles but it would have to be within prescribed limits which should only be used in certain circumstances. There are health and safety issues that would need to be addressed to ensure the safety of licensing officers involved in this activity.

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)*

Response:

Much clearer definition is needed as to exactly what is meant by touting and soliciting. It is wrong to limit it to just a public place. The whole issue of being able to enforce for touting needs to be looked at so that effective enforcement action can be taken.

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)*

Response:

In theory this seems desirable provided clear definition was given as to under what circumstances this could be done. However, in essence there would be practical issues involved such as where would any vehicles be stored and ensuring that the cost of impounding vehicles was met by the owner. It would also depend on the expertise of the officer involved in impounding vehicles as this type of action would be likely to attract legal challenge. Given our existing powers we do not see there is any real need and could be deemed to not be proportionate.

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

Response:

This authority has a penalty points system contained within our taxi policy which does work effectively in keeping errant drivers in line, however, we also agree that licensing authorities could use fixed penalty schemes in certain circumstances. This would empower officers, save time and retain income. Most common taxi byelaw and private hire conditions could be distilled into model fixed penalties. This would on its own make the most significant contribution to quality control and better use of enforcement resource while using fines to enhance the licensing service. Officers should also have such powers in relation to some endorseable offences eg tyre defects.

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

Response:

This may work but should only be used for simple enforcement issues or those relating to immediate safety issues

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)*

Response:

We do not agree, revocation and suspension should always be dealt with by the relevant licensing authority. Information and evidence could be provided by another authority but that is all. The only exception that could be justified would be if a vehicle was stopped and found to be unroadworthy

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)*

Response:

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)*

Response:

We do not agree. The existing system works well

Provisional proposal 72 - Appeals should continue to be heard in the magistrates' court. *(Page 232)*

Response:

We agree

Question 73 - Should there be an onward right of appeal to the Crown Court? *(Page 233)*

Response:

Only on particularly important points of law.

From: [REDACTED]
Sent: 06 September 2012 12:35

To: TPH

Subject: How lccp203 will destroy what little is left of my livelihood

Dear Francis and Jessica

Having been a taxi driver since 1985 i consider myself qualified to comment on your proposals to destroy what is left of my livelihood.

I work my 'independent' hackney in Brighton and Hove,so i am one of the smallest of the small of sole traders,and as such i am very vulnerable to any down turn in trade.Now,i know that we are in the worst recession that we've known in our lifetime but,the reason that i just about got through the previous ones was that my council had'nt flooded the ranks with too many cabs,so our customers always had a good service and the cab drivers were able to earn a living,so it was fair for everybody.

But,now those days are over,in B'ton and Hove at least,as although the council have been told time and time again that there is "no un-met demand" it has continued to put more and more cabs and cab drivers on our already flooded ranks and streets,without any regard to its existing drivers or current and future sustainability.

When i started back in 85 the older drivers always said "you will never make money being a cab driver but,you will always earn a living",well,they will be turning in their graves now because to take away the limit of each councils cab numbers on a national level will simply result in exactly what has happened here,which is

1) over ranking,and thats not just once in a while but 24/7...

24/7 of drivers having to 'park' anywhere they can find near their ranks just to queue...to get onto the queue! Madness! And with all of the risks that doing that involves.

2) Bankruptcy to many,and that will include me as well...i need to take £100.00 a day to keep my head above water,and thats 'take',not earn,our Ex's are going up by the day,income falling by the day,where the council have put on far too many cabs...at the worst possible time...i'm now lucky if i 'take' £60.00 a day,and the only way that i'm getting by on a daily basis at the moment is having to go into debt on my credit card,and why?...because some person/persons unknown in the council has put on too many cabs...and now you want to do it across the country???

None this is rocket salad,its just basic common sense,we don't need any more hackney cabs...what is needed is more customers.

The way things are now,if i took my business onto Dragons Den,they would all say...'i'm out'.

Please law commision,do you people with power always have to make things worse for us?

Try doing a good thing,and tell B'ton and Hove council to stop putting on any more cabs...and to apologize to us for needlessly

wrecking our livelihoods.

And for heavens sake don't do it across the country

Kind regards

Martin Blake

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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)

Disagree

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)

Too grey

Question 4

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

If un-motorised vehicles require licensing should be a separate category/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)

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)

Still leaves too much to local interpretation

Question 9

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

(a) carpooling; and

(b) members clubs? (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 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 –Public safety they are still carrying passengers - with the exception of the hearse

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)

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 – Airports should have provision for a taxi rank, choice for the public

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

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)

Provisional proposal 18

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

Agree – but if a 1 tier system introduced should read the same on rank or hailed

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)

Disagree - Vehicles should always be driven by licensed drivers – This could leave it open to abuse – Enforcement issues in small licensing teams and rural locations.

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 if we keep two tier

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)

Current legislation allows them to call their company whatever they like as long as they don't put it on the vehicle. Very difficult with companies that operate taxis and PHV's i.e Teignbridge Taxis.

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

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)

Should be the same as taxis – Additional conditions required for novelty vehicles

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)

Agree

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

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 – Drivers safety is important regardless of what they drive. The only additional security PH drivers have is they are pre booked but if the pick up off the street they are just as vulnerable.

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)

Yes

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)

Yes

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

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

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)

Disagree – Regulation through the back door

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 – too 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

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 but only on pre booked journey in agreement with customer when booking to cover dead mileage. Maximum booking fee to be displayed on the tariff card i.e. £10

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

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

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)

No

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)

Agree

Provisional proposal 52

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

Agree

Question 53

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

Agree

CHAPTER 17 – 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)

Lack of rank space but this exists in most areas already as the trade all want to rank on the busiest ones. Temporary flood of extra taxis but market forces reduces this.

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 - How would this be monitored – It would create wait lists or a lottery

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)

1 They should anyway

2 They would never be first on the rank and may lose out on business. LA decision in busy areas.

Question 58

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

Would only work in areas where fees are high. We only charge £80 so any reduction would be minimal and not an incentive to purchase higher cost 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)

Free advert on all ranks in district giving WAV's contact details.

Provisional proposal 60

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

Agree – Most areas operators have found a niche in the market and filled it

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)

Illuminated sign (LED) in front windscreen FOR HIRE. This could then be seen in daylight unlike the taxi roof light.

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)

Public safety campaign highlighting the dangers to passengers

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)

Desirable but I don't think any singular Authority would have the man power to enforce but it could be a deterrent if advertised

Question 67

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

Yes for breaches in legislation

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 they are causing the offence in their area

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

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

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)

No – If its already been heard twice and the same decision has been made, Why should we waste more resources hearing it for a third time, especially if it's been reviewed by a LA in first instance it's been heard 3 times already.

From: W S Cole & Son [REDACTED]
Sent: 06 September 2012 14:06
To: TPH
Cc: [REDACTED]
Subject: Re: Reforming the law of Taxi and Private Hire Services.
Dear Sir

Re: Reforming the law of Taxi and Private Hire Services.

As an Established Funeral Company we write to express our strongest objection to the proposed removals of the funeral industry exemption to the Private Hire & Taxi regulations. To compare funeral vehicles with other private hire vehicles is ridiculous as there is no comparison to their uses. The cost of implementation of the charges would be large and would need to be passed to the families of the bereaved, yet another additional cost which many families can ill afford. This would be seen as another death Tax which would not be received well with the general public.

Our Vehicles are of necessity are maintained to a high standard, but none are wheel chair accessible, or able to be adapted for wheel chair use, If such is needed we hire in one that is. In the course of our year, that may happen once or twice, it hardly seems necessary to have vehicles that are wheel chair friendly for the number of times required.

Is there any evidence of incidents involving Funeral vehicles in accidents that would necessitate such a dramatic move away from the current position.

Such a small amount of wording in the Private Hire and Taxi licensing regulations would have an enormous impact on our already highly regulated industry.

Yours sincerely, with, expectation of common sense prevailing and the situation remaining as is.

Jonathan Cole

Funeral Director
17-19 High Street
Minster, near Ramsgate
Kent
CT12 4BU
01843-821253

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Please reply to:
Tony Nicholls



Mr P Hodgson
The Law Commission
Steel House
11 Tothill Street
LONDON
SW1H 9LJ

Mr Ray Webster
Head of Environmental
Health, Housing,
Planning & Public
Protection
Bridge Buildings
Bideford
Devon
EX39 2HT

Our Ref : TN/lc/consult2012
Date 31st August 2012

Your Ref :

DX:53606 Bideford

Tel 01237 428700

Dear Mr Hodgson

**LAW COMMISSION CONSULTATION DOCUMENT: 'REFORMING THE
LAW OF TAXI AND PRIVATE HIRE SERVICES'**

I have pleasure in enclosing this Authority's response to the above consultation document which was approved by my Licensing Committee on 23rd August.

Office Hours
Mon, Tue, Wed, Thu
8:45am - 5:15pm
Friday
8:45am - 4:45pm

I would like to take this opportunity to confirm this Authority's support for the Commission's stance on most of the proposed reforms. The law governing hire car services is archaic and your review is timely. We believe that the safety of the travelling public is of paramount importance and that this objective should remain at the heart of the regulatory process. This Authority is a small rural Council with a relatively small taxi and private hire fleet (approximately 100 vehicles evenly split between taxi and private hire) but we have taken steps in recent years to drive up standards within the local industry as we believe this provides greater protection for the public and a better quality of service. To this end, we introduced in 2008 a policy that all new applicants for taxi drivers' licences must obtain the BTEC qualification 'Introduction to the Role of the Professional Taxi and Private Hire Driver' and the DSA Private Hire/Taxi Driving Assessment Certificate. This has driven up the cost of obtaining a licence but it has without doubt improved standards within the industry. We therefore strongly encourage the Commission to bring forward proposals for a national training qualification for all taxi drivers in the public interest.

Head of Paid Service
Jenny Wallace



100%

We also believe that the Commission needs to take into account the widely differing character of local authority areas when shaping its proposals for reform. Torrridge is a predominantly rural area with a high deprivation index and the nature of the taxi/private hire industry here is vastly different from that of a large metropolitan authority. We therefore believe that there should be

some degree of flexibility built into any future licensing regime so that local circumstances can be accommodated.

We also welcome the Commission's proposals to reduce the regulatory burden on licence holders as this may help to stimulate the local economy but this must not be done at the expense of public safety.

I would welcome the opportunity to discuss our views with you in greater detail and would be very happy to invite a representative from the Commission to an informal meeting if this would be beneficial.

I hope that our response will help to inform your consultation.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A Boyd', written in a cursive style.

Councillor Andy Boyd
Chair, Licensing Committee

LAW COMMISSION REVIEW

“REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES”

DRAFT RESPONSE TO CONSULTATION

TOPIC	SUGGESTED RESPONSE
CHAPTER 14 – REFORM OF DEFINITIONS AND SCOPE	
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. <i>(Page 160)</i>	We understand the Commission’s thinking on this issue but we feel this is a missed opportunity for radical reform of the industry. With the advent of new technology (e.g. mobile phone, internet), the distinction between taxis and private hire vehicles has become increasingly blurred. The differences between the two sectors of the trade are not well understood by the public and we feel that there would be merit in introducing a single class of ‘hire car’ which could be booked in advance and ply for hire.
Provisional proposal 2 London should be included, with appropriate modifications, within the scope of reform. <i>(Page 162)</i>	Agreed. It makes sense to have a national system of regulation.
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. <i>(Page 164)</i>	Agreed. However, there are certain types of vehicle which are unsuitable for licensing. Licensing authorities should be able to retain power to refuse licences for vehicles they deem unsuitable for public use.
Question 4 Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? <i>(Page 164)</i>	No. This would exclude, for example. horse-drawn vehicles and pedicabs
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. <i>(Page 165)</i>	Agreed.
Provisional proposal 6 References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. <i>(Page 166)</i>	Agreed. This is an anachronism which needs to be removed.

<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>We would welcome statutory guidance on limousines. However, there is such a diversity of novelty vehicles that we believe it would be difficult to issue statutory guidance. This is an area which may best controlled by local licensing policy.</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>Agreed.</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 (b) members clubs? <i>(Page 170)</i></p>	<p>We believe that neither of these services should require a licence.</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>Agreed. There should be sufficient flexibility to take account of local circumstances.</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>Disagree. We believe that this would place an unnecessary regulatory burden on such businesses which have traditionally operated with out the need for a licence. We are not aware of any problems or risks to the public which would require such vehicles to be regulated.</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>No. This was always a ‘grey’ area and enforcement was consequently extremely difficult. We believe there would be little advantage in re-introducing the exemption.</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>Agreed.</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>There are no airports in Torridge so it is probably inappropriate for us to comment on this issue. However, we see no reason why airports should be treated differently from any other transport interchange (e.g. railway stations).</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. <i>(Page 181)</i></p>	<p>(a) Agreed</p> <p>(b) Agreed</p> <p>(c) Don't know</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>Agreed – if the distinction between taxis and private hire vehicles is to be retained. Any hiring of a vehicle by mobile phone, internet etc. is effectively pre-booking.</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>Possibly – although ‘arrangements in a public place’ could include a mobile phone/internet booking. We believe the definition would need to be strengthened to clearly state that the hiring is made by direct verbal contact between the customer and the driver and not by a technological means (see proposal 16).</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>Agreed – provided the defence of ‘reasonable excuse’ is retained (Town Police Clauses Act 1847, s.53)</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>Agreed – if a two tier system is to be retained.</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>Disagree. This would be extremely difficult to police and open the system to potential abuse.</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>Agreed. This would help to achieve consistency of regulation across England and Wales (cf. statutory guidance issued under the Licensing Act 2003 and the Gambling Act 2005)</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>Agreed. The term is outdated.</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>No. We believe this would only cause further confusion among the travelling public.</p>
<p>CHAPTER 15 – A REFORMED REGULATORY FRAMEWORK</p>	
<p>Provisional proposal 24</p> <p>Taxi and private hire services should each be subject to national safety requirements. <i>(Page 188)</i></p>	<p>Agreed.</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>No. We see no reason why there should be a different standard for taxis than for private hire vehicles. The key objective of the licensing regime is to ensure the safety of persons travelling in public service vehicles. The standards for both sectors of the trade should therefore be the same.</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>Agreed (but see response to proposal 25 above)</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>Disagree. The standard for both sectors of the industry should be the same.</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? <i>(Page 190)</i></p>	<p>Yes. There should be local flexibility.</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>We believe that the most likely obstacles will be around setting standards for vehicles which can carry more than 4 passengers. In our experience, problems with access/egress from the rear row of seats means that many multi-seat vehicles – particularly those where access/egress is by way of folding seats in the middle tier - are often not suitable for licensing</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>No. The safety of passengers is of paramount importance so there should be no difference in safety standards.</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>No. There are other areas such as vehicle design, accessibility and passenger comfort which should be included.</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>Agreed.</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>It would be sensible to look at best practice among licensing authorities and have regard to current Department for Transport Best Practice Guidance. We believe there would be merit in setting up a technical advisory 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>Agreed.</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>Probably – in order to achieve consistency at a national level.</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>Yes. At present, hackney carriage drivers can only be regulated by way of bye laws which is a cumbersome and bureaucratic process. The ability to impose conditions on taxi drivers' licences would be a significant improvement and give licensing authorities greater enforcement powers.</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>Best left to 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. <i>(Page 196)</i></p>	<p>Agreed.</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>Agreed – again in the interests of flexibility and recognising local needs.</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>Doubtful. This could be regarded as discriminatory.</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 believe this is not an issue in most rural areas.</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>This is a sensible proposal.</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>We believe that the setting of fares should not be the responsibility of the regulator. The parallel would be the licensing of premises under the Licensing Act 2003: the licensing authority regulates the premises but does not fix the price of alcohol. Why not allow market forces to determine fares for taxis as currently happens for private hire vehicles?</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>Yes, provided that there is a legal duty on the driver to inform the hirer of any non-metered charges at the time of the hiring.</p>
<p>CHAPTER 16 – REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING</p>	
<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>(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? <i>(Page 203)</i></p>	<p>We believe this option is preferable as it would allow for any changes to standards to be made relatively quickly. This would not be possible if the standards were specified in primary legislation.</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>Agreed.</p>
<p>Question 47</p> <p>Should national vehicle safety standards be either:</p> <p>(a) set out in primary legislation; or</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>As for Q.45</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>Agreed.</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>If a taxi radio circuit is being used to administer bookings then it should probably be regulated in the same way as a Private Hire Operator.</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>Agreed.</p>
<p>Question 51</p> <p>Should “fit and proper” criteria in respect of operators be retained? <i>(Page 210)</i></p>	<p>Yes. The public need to have confidence in persons providing this type of service.</p>
<p>Provisional proposal 52</p> <p>Operators should be expressly permitted to sub-contract services. <i>(Page 210)</i></p>	<p>Yes.</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>Yes. This would assist in the investigation of complaints and any enforcement action.</p>
<p>CHAPTER 17 – REFORMING QUANTITY CONTROLS</p>	
<p>Provisional proposal 54</p> <p>Licensing authorities should no longer have the power to restrict taxi numbers. <i>(Page 213)</i></p>	<p>Agreed. This has always been a contentious area of policy and we believe that there should be an open and competitive market.</p>
<p>Question 55</p> <p>What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? <i>(Page 213)</i></p>	<p>In the short term, there would probably be an upsurge in taxi numbers leading to overcrowding on ranks, possible congestion and (temporary) reduction in earnings until the market found its natural level.</p>
<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>Yes. This would help to mitigate the problems noted at Q.55.</p>
<p>CHAPTER 18 – TAXI AND PRIVATE HIRE REFORM AND EQUALITY</p>	
<p>Question 57</p> <p>Should there be a separate licence category for wheelchair accessible vehicles? This could involve:</p>	<p>Yes – provided there is a national specification for such vehicles (something which has eluded the DfT to date!).</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. <i>(Page 217)</i></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>This could be considered as a financial incentive if the number of accessible vehicles is low.</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>Provision of ranks exclusively for wheelchair accessible vehicles.</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>We agree with this proposal. It would be difficult to apply – especially if there were significant fluctuations in the size of the fleet.</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>Agreed.</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>Agreed.</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>This is desirable but would be extremely difficult to enforce in practice.</p>
<p>CHAPTER 19 – REFORMING ENFORCEMENT</p>	
<p>Question 64</p> <p>Should authorised licensing officers have the power to stop licensed vehicles? <i>(Page 222)</i></p>	<p>Yes. This would be a welcome enforcement power.</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>This is not an issue in our area.</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. This would be an extremely effective enforcement measure.</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. This would be a quick and effective enforcement measure for minor offences.</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>Yes. This would be helpful when dealing with instances of illegal plying for hire. However, some form of inter-authority enforcement protocol would probably be required setting out clear policy and procedures.</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>No. We believe that, for legal reasons, these sanctions should only be applied by the authority issuing the licence. However, there is no reason why another licensing authority should not provide evidence in support of suspension/revocation</p>
<p>CHAPTER 20 – REFORM OF HEARINGS AND APPEALS</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. <i>(Page 230)</i></p>	<p>Agreed.</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. This would be a waste of time and resources.</p>
<p>Provisional proposal 72</p> <p>Appeals should continue to be heard in the magistrates' court. <i>(Page 232)</i></p>	<p>Agreed.</p>
<p>Question 73</p> <p>Should there be an onward right of appeal to the Crown Court? <i>(Page 233)</i></p>	<p>Yes.</p>

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)*

Response to provisional proposal 1

A one tier system would be preferred as this would result in less confusion for members of the public, market forces would determine the level of specialized vehicles e.g. school contracts, disabled customers etc.

CHAPTER 14 – REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

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

Response to provisional proposal 2

Yes – this should be national to avoid confusion.

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)*

Response to provisional proposal 3

Yes, all vehicles available for hire or reward with the services of a driver should fall within the scope of the legislation. Market forces would dictate this and public safety is paramount.

Question 4

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

Response to question 4

No, all vehicles available for hire or reward should be subject to stringent tests as public safety is paramount as per response to provisional proposal 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)*

Response to provisional proposal 5

Yes they should be excluded – the definition should have no grey areas. It should be a taxi / private hire vehicle or a public service vehicle, loop holes should be removed.

Provisional proposal 6

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

Response to provisional proposal 6

Agreed – see response to provisional proposal 5

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)*

Response to provisional proposal 7

Yes however the guidance should be made available to local authorities. A change in legislation would be preferred as guidance can be interpreted differently.

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)*

Response to provisional proposal 8

“Volunteers” should be included in the scope of taxi legislation, public safety is paramount. Vehicles may be carrying vulnerable members of the public and should not be exempt from tests imposed on all other vehicles that are used for hire or reward.

Question 9

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

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

Response to question 9

- a) carpooling should be exempt
- b) members clubs should be included in the scope of the legislation

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)*

Response to provisional proposal 10

Yes – if the two tier system is maintained. If not there should be no grey areas.

Provisional proposal 11

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

Response to provisional proposal 11

Yes – public safety is paramount.

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)*

Response to question 12

No all loopholes should be closed and contract exemptions should not be introduced, as public safety is paramount.

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)*

Response to provisional proposal 13

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)*

Response to question 14

Yes

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)*

Response to provisional proposal 15

- a) yes
- b) yes
- c) yes – if a 2 tier system is kept

Provisional proposal 16

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

Response to provisional proposal 16

Yes – it is important to keep these separate if a two tier system is to be kept.

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)*

Response to question 17

None

Provisional proposal 18

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

Response to provisional proposal 18

Yes – this should be retained if both the driver and passenger can be conveyed safely.

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)*

Response to provisional proposal 19

Yes – if the two tier system is to be kept, however a one tier system would be preferable as all vehicle provide the same service.

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)*

Response to provisional proposal 20

No this would provide loopholes and could have public safety implications. Once a vehicle is licensed as a hackney carriage or private hire only a person with the relevant licence to drive that vehicle should be permitted to do 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)*

Response to provisional proposal 21

Regulation and legislation is preferred.

Provisional proposal 22

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

Response to provisional proposal 22

No – this should refer to hackney carriage and private hire respectively if the two tier system is staying.

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)*

Response to question 23

Yes as long as it is only part of the company name and the reference to pre booked is included on the vehicle.

CHAPTER 15 – A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

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

Response to provisional proposal 24

Yes – public safety dictates this. National standards will regulate the industry nationwide and prevent the problem of people licensing vehicles in areas where the standards are less stringent than using them in other areas.

Provisional proposal 25

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

Response to provisional proposal 25

Agreed local authorities should maintain the ability to set additional standards eg. signage and livery.

Provisional proposal 26

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

Response to provisional proposal 26

Disagree. The same authority should apply as per hackney carriage vehicles.

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)

Response to provisional proposal 27

Agreed – technology will assist all pre-bookings.

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)

Response to provisional proposal 28

Yes – public safety and assisting in regulation.

Question 29

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

Response to question 29

A clear steer and time frame with transitional arrangements is required.

Question 30

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

Response to question 30

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)

Response to provisional proposal 31

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)

Response to provisional proposal 32

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)*

Response to question 33

Yes - the statutory requirement to consult should refer to a technical advisory panel.

Provisional proposal 34

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

Response to provisional proposal 34

Agreed as per 25 above.

Question 35

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

Response to question 35

No. Locality and market forces should dictate.

Question 36

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

Response to question 36

Yes – public safety is paramount.

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)*

Response to question 37

Powers and duties should be statutory to ensure consistency nationally.

Provisional proposal 38

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

Response to provisional proposal 38

Not sure if this would be necessary if national minimum standards are approved.

Provisional proposal 39

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

Response to provisional proposal 39

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)

Response to question 40

No, this would be an “enforcement” nightmare.

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)

Response to provisional proposal 41

Licenses should not be restricted in this way.

Provisional proposal 42

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

Response to provisional proposal 42

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.

Response to provisional proposal 43

Agreed – public safety is paramount. A passenger can shop around when pre-booking but they cannot do this if hired from a taxi stand.

Question 44

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

Response to question 44

No – see response to provisional proposal 43.

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)

Response to provisional proposal 45

- a) yes
b) no

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)

Response to provisional proposal 46

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)

Response to question 47

- a) no as they may not stand the test of time and legislation is not easy to update in line with technology.
b) yes – this would be future proof

Provisional proposal 48

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

Response to provisional proposal 48

Yes – public safety is paramount and proper records should be kept of all booking.

Question 49

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

Response to question 49

Yes – public safety is paramount and proper records should be kept of all bookings

Provisional proposal 50

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

Response to provisional proposal 50

Agreed

Question 51

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

Response to question 51

Yes – should also include radio circuits

Provisional proposal 52

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

Response to provisional proposal 52

Agreed

Question 53

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

Response to question 53

Yes – public safety is paramount and records should be kept of all bookings

CHAPTER 17 – REFORMING QUANTITY CONTROLS**Provisional proposal 54**

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

Response to provisional proposal 54

Agreed – market forces will dictate

Question 55

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

Response to question 55

There would be a temporary “over ranking” of taxi stands but market forces would ultimately dictate.

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)*

Response to question 56

Yes, this would prove useful to local authorities.

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)

Response to question 57

A one tier system should be introduced and legislation should stipulate that only wheelchair accessible vehicles can use the ranks. This would cover both parts of this proposal.

Question 58

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

Response to question 58

Yes, plus legislation should prescribe that only wheelchair accessible vehicle can use the ranks.

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)

Response to question 59

As above, only wheelchair accessible vehicles can use the ranks.

Provisional proposal 60

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

Response to provisional proposal 60

The response to proposal 59 would resolve this issue as market forces would dictate.

Provisional proposal 61

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

Response to provisional proposal 61

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)

Response to provisional proposal 62

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)*

Response to question 63

An enforceable solution for this is not known.

CHAPTER 19 – REFORMING ENFORCEMENT**Question 64**

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

Response to question 64

Yes – public safety is paramount.

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)*

Response to question 65

Clarification through legislation, see provisional proposal 13 and 15.

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)*

Response to question 66

Yes – but only for public safety reasons. Local authorities could look at police contracts to assist with this process.

Question 67

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

Response to question 67

Yes, the ability to issue fixed penalties for minor breaches in the first instance would be useful.

Provisional proposal 68

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

Response to provisional proposal 68

Yes – this is a must with the removal of “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)*

Response to question 69

Yes as far as a suspension of vehicles is concerned however driver decisions should be referred back to the local 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)*

Response to provisional proposal 70

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)*

Response to provisional proposal 71

No, this is pointless as the decision has already been made.

Provisional proposal 72

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

Response to provisional proposal 72

Agreed

Question 73

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

Response to question 73

Yes

From: Ian Millership [REDACTED]

Sent: 06 September 2012 15:45

To: TPH

Subject: Taxi and Private Hire Services Consultation

Dear Law Commission

I have personally been involved with independent review of licensed vehicle operations since the late 1980's. I am professionally a transport planner, used to economic and operational reviews for the department for transport to justify road schemes.

The review is very thorough and thought provoking but my main suggestion would be that the tool of a limit on hackney carriage vehicles should remain as a way regulators can protect the public - even if that is other travelling public who would otherwise be badly affected by congestion from the uncontrolled number of hackney vehicles seeking rank spaces. There may be times there could be political justification for limits as long as councillors were clear on their aims and reasons.

Limits would also maximise the benefit that could be obtained from your recommendation that zoning could be reapplied to help encourage hackneys in non honeypot areas.

I have elsewhere suggested a method to evaluate limits from a congestion viewpoint and explained the myriad of authorities who have used limits to bring direct public benefit over the years - sometimes just for short periods.

The fillip given to trade attitudes from a limit also leads to indirect benefits for passengers who are often the first to suffer from the impacts of over supply.

Kind Regards,

Ian Millership MIHT CMILT

Taxi Expert and Transport Planner

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LAW COMMISSION CONSULTATION TO REFORM THE LAW OF TAXI AND PRIVATE HIRE SERVICES



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)

Response:

Agreed. There is currently nothing wrong with the existing two-tier system; however we agree that the legislation needs updating to bring greater consistency in standards. Whilst taxis and private hire vehicles are distinguishable and generally recognised by the public, regulation should be expanded to ensure the public realise that private hire vehicles are for pre-booked journeys only. Moving to a one-tier system would mean that ranks would become overcrowded and cause existing hackney carriage drivers to be disadvantaged by new competition from the private hire trade.

It is accepted however that a one-tier system could reduce customer confusion and possibly simplify enforcement and administration.

Reform of definitions and scope

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

Response:

No comment – The inclusion of London does not have any impact on us as a local authority.

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)

Response:

Disagree. Limiting the definition to “motor vehicles” would broaden the types of vehicles to be licensed. The consequences of this are:

- Greater range of standards would have to be applied
- Different sets of safety standards/requirements would have to be applied to different vehicles

Persons taking responsibility for the hirer of their vehicle irrespective of type should be ‘fit and proper’ within the meaning of the 1976 Act and should not avoid scrutiny due to lack

of a driver licence requirement (e.g. for rickshaws, horse drawn carriages etc).

Question 4 - Would there be (and if so what) advantage to restricting licensing to motor vehicles that require a driving licence

Response:

Yes - Drivers for hire and reward are expected to have road traffic knowledge and experience. Drivers of Padi cabs, rickshaws and horse drawn carriages do not have to have a driving licence to use these vehicles on the road. They should continue to be licensed as Omnibuses.

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)

Response:

Agreed. However we believe the licensing regimes should be closer aligned to ensure fairness and consistency e.g. PSV drivers should have CRB checks.

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

Response:

The use of the term 'stage coaches' should be removed from legislation as it is out dated and not applicable to modern 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)

Response:

Agreed. This authority feels it is essential to ensure safety of fare paying public and must include Stretch Limousines. Similarly there should be national standards for this type of vehicle set by Government.

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)

Response:

Disagreed. Requiring genuine volunteers to hold private hire licences (including a driver, vehicle and operator licence) may seem excessively onerous and unnecessary, however, exempting non-business hire, occasionally hiring out classic taxis etc, could compromise public safety, as they would not be required to have CRB or DVLA 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)**

Response:

(a) Carpooling should be exempt from licensing as it encourages sharing vehicles and thus is environmentally friendly. There should not be any element of profit however.
(b) Members clubs could be exempt but if there is any element of profit then they should be licensed.

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 regime (page 171)

Response:

We agree providing any exclusion only relate to different standards for different vehicle types. Different standards should not relate to different licensing areas.

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

Response:

We agree that wedding vehicles should be licensed as they are often used for other occasions such as stag and hen parties etc where the drivers should still have to submit to the 'fit and proper' test. However provision should be put in place regarding age etc, as a lot of wedding cars are vintage.

Funeral cars should still fall outside of the licensing regime as they have a specific purpose and are not used for other transport functions.

Question 12 - Would there be merits in reintroducing the contract exemptions, 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)

Response:

In general we see no merit in this, as the whole reason of the repeal was to bring people into the licensing regime to enhance public safety. If the contract exemption were to be re-introduced it should be on a very limited basis with very strict criteria as to how it is applied.

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)

Response:

Agreed. Regulation should not be limited to streets. We suggest that the new definition

should be “within the district” and mean any place where there is free access to the public even if this is given by private landowners.

Question 14 - Is there a case for making a 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 (page 177)

Response:

Agree, however we understand that airports need to have controls over the transport services available on site.

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)**

Response:

We agree, however it would need to be a very clear definition so that it will be much easier for a licensing authority to take legal action against drivers who are acting illegally as under the current law it is very difficult to bring a case against someone believed to be illegally plying for hire.

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

Response:

Agreed – these methods are not 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)

Response:

There may be advantages to adopting this approach but the definition of “public place” needs to be very carefully defined

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

Response:

We agree, unless the vehicle is not adequate for the customer, for example a non wheelchair accessible vehicle hailed by a wheelchair user

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)

Response:

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.

Response:

We recognise that the concept of “once a taxi, always a taxi” does put families in a difficult position whereby the vehicle cannot be driven by an unlicensed taxi driver for purely social purposes. However changing the law will inevitably lead to enforcement issues as local authorities will have to prove/disprove when a vehicle was being driven for business purposes, legislation must therefore stipulate that all signage must be removed when a vehicle is being used for social and domestic purposes. This would be problematic though if local conditions currently state signage must be permanent and not magnetic.

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)

Response:

We agree. There is a huge difference in standards across local authorities and statutory guidance would aid consistency and must include clear-cut definitions. However the current DfT guidance is quite vague in areas and would need to be more specific if used as statutory guidance.

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

Response:

We agree, the reference to ‘hackney carriages’ is out dated and a term not understood by the general public. However, if this is put in place then Central Government and public bodies should refrain from using the word “Taxi” as a definition of the HC & PH Trade.

Question 23 - Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided that they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion (page 186)

Response:

Using such terms in advertising probably wouldn’t lead to consumer confusion. Most customers tend to use the term ‘taxi’ regardless of whether it is a taxi or PHV. However

signage must be limited to the body of the vehicle and clearly show 'pre-booked' only. There should be no roof signs on private hire vehicles.

In short it must be easy for the consumer to know what vehicles they can hail in the street.

A REFORMED REGULATORY FRAMEWORK

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

Response:

We understand that some licensing authorities have very low licensing standards. Whilst therefore supporting the concept of national standards, which would promote consistency, we would be extremely unhappy if the high standards adopted by this authority were to be compromised.

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

Response:

See response to proposal 24. Whilst supporting the concept of national standards, licensing authorities should also have discretion to make additional requirements to address local needs. We would not wish to see this good work undone by the imposition of safety standards that do not meet our own. The public should expect the same standards for PH and HC.

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

Response:

See response to proposals 24 and 25. We believe there should be no difference in standards between taxis and private hire services as all are used to transport the travelling public. Further consultation should be carried out with local authorities regarding their conditions before any decision is made as to mandatory standards e.g. we expect drivers to know area therefore knowledge tests should be required.

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)

Response:

We do not agree. We believe that topographical knowledge is a safety standard and that customer's expect/need to know that drivers know routes and that they will take the correct/shortest route for the journey they require. A customer would feel extremely unsafe and compromised if they felt the driver did not know the local area.

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)

Response:

Agree, however it would be useful if there were a national template with local variation options. This would enable the public to easily identify a vehicle, which was for pre-booked journeys only as they would know what to look for.

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

Response:

We do not see any obstacles although it would depend on the level of standard. There should be no difference in the level of standard between taxis and PHV's as there is no difference in risk. Also it is important to remember that taxis undertake private hire work so the same standard should apply. Different standards may have to apply however, for different types of vehicles e.g. purpose built taxis, saloons and MPV's

Question 30 - Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (Page 192)

Response:

No not at all. The level of risk to drivers is potentially the same and both are concerned with transporting the public in similar situations.

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)

Response:

We agree. Local authorities should still have flexibility to set standards and conditions that are locally appropriate. National standards would improve consistency across local authorities and could perhaps be achieved by pools of 'model conditions' that authorities would have discretion over imposing.

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)

Response:

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)

Response:

We believe further consultation is necessary to assess what standards local authorities

have in place before determining national standards. Consultation should also be undertaken with not just local authorities, but also trade, service users, RoSPA and disable workers forums etc.

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

Response:

We agree for the reasons set out in the preceding responses

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

Response:

If clear guidance is in place regarding the setting of conditions as well as a pool of 'model conditions' then this will assist but there should not be statutory limits because this impedes an authorities capability to be innovative

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

Response:

Yes. Licensing authorities should retain powers relating to the control and effective accountability of licence holders within their area

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)

Response:

We consider that this is best left for local arrangements where it is deemed necessary and appropriate

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

Response:

This could prove workable but only where neighbouring authorities have similar licensing conditions and the same ethos as to how enforcement should be effectively carried out, otherwise it could cause as many problems as it may solve.

Provisional proposal 39 - Licensing authorities should have the option to create, or remove, taxi zones within their area. (Page 196)

Response:

We are not a large enough authority for zoning to be a particular issue. However we do

see that for some authorities this maybe a useful option

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)

Response:

Possibly for certain areas/local authorities this may assist with periods of unmet demand.

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)

Response:

We strongly disagree. Under this proposal operators could employ drivers licensed from a number of other authorities. How could enforcement action be taken if an operator employs drivers or uses vehicles from a number of differing authorities? Enforcement is much easier if all 3 licences are issued by the same authority. The present system is easy to understand for all. There is also an economical factor to be taken into account, as operators, drivers and vehicles would inevitably seek to licence with the cheapest local authority provider. This could be solved by the introduction of statutory licence fees but for some authorities this would probably mean them operating at a loss rather than being cost neutral.

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

Response:

The non-adoption of this proposal is a missed opportunity to deter illegal activity and will encourage out of area taxis/phv's to ply for hire.

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)

Response:

LAs should regulate maximum fares for both. Public do not differentiate between HC & PH and having a consistency ensures fairness.

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

Response:

We do not agree. We do think that taxis should be required to retain details of pre-booked journeys as this would aid enforcement

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)

Response:

Standards should be set out in primary legislation. A list of ‘relevant offences’ would be useful

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)

Response:

All licence holders should be subject to the ‘fit and proper’ test. Under the present regime individuals who know they would be unlikely to obtain a driver licence because of convictions etc can still play an active role in the industry. By its very nature the taxi and private hire trade is a largely cash business, ensuring vehicle owners are ‘fit and proper’ is paramount to prevent criminality such as money laundering or fraud.

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)

Response:

Basic safety standards should be set out in primary legislation but it should be for the local authority to have the ability to set additional standards if appropriate

Provisional proposal 48 - Operator licensing should be retained as mandatory in respect of private hire vehicles. (Page 207)

Response:

We strongly agree.

Question 49 - Should operator licensing be extended to cover taxi radio circuits and if so on what basis? (Page 208)

Response:

Yes, the requirement should be to keep a record of the booking in a similar format to that of operators to aid enforcement. Customers expect direct recourse where provision for booking is made.

Provisional proposal 50 - The definition of operators should not be extended in order to include intermediaries. (Page 209)

Response:

Agree, however we do have concerns over bookings made via the internet and would wish there to be a clear definition as to their responsibilities

Question 51 - Should “fit and proper” criteria in respect of operators be retained? (Page 210)

Response:

Yes. The duties associated with a private hire operator are implicitly linked with a duty to be responsible for the safety and security of passengers

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

Response:

Agree, this should remain - subcontracting is currently permitted as long as it is to a licensed operator within the borough

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

Response:

Yes, records of pre-bookings should be kept in place and the requirement to produce to the licensing authority on request should be in place.

CHAPTER 17 – REFORMING QUANTITY CONTROLS

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

Response:

We agree. This doesn't affect our authority, as we do not restrict numbers. In our experience as drivers have left the profession others have joined in recent years. However this may be because of the high standards we have in place regarding joining the trade.

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

Response:

We are already faced in Medway with problems with insufficient rank space to deal with the volume of licensed drivers – this could become a major problem in areas that currently have restricted numbers

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)

Response:

Staggered entry would assist both the existing trade and local authorities with issues such as adequate rank space.

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)***

Response:

We broadly support this - Conditions should not be too onerous and this may discourage applicants.

Question 58 - Should licensing authorities offer lower licence fees for vehicles, which meet certain accessibility standards? *(Page 217)*

Response:

As licence fees should be set on a cost recovery only basis offering discounts could result in a shortfall of funds for the authority.

We believe our fees to be low, any discount offered would not be advantageous to the 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)*

Response:

Government funding towards the cost of purchasing these vehicles may act as an incentive to encourage the trade to purchase this type of vehicle over the normal saloon and/or a reduction in the road fund licence.

Provisional proposal 60 - We do not propose to introduce national quotas of

wheelchair accessible vehicles. (Page 218)

Response:

We agree as we think national quotas are unworkable.

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

Response:

The Equalities Act addresses this issue, the burden of responsibility should lie with the drivers and operators but we would welcome national standards to be applied to ensure a consistent approach

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)

Response:

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)

Response:

From a passenger/drivers point of view - Exemptions in some parts of the road traffic legislation may assist e.g. permitting drivers to pull into bus stops, stop on double yellow lines to load/unload.

However, if this were to be introduced it would be difficult to deal with complaints/enforce. Evidence to assert that a driver has seen a potential hirer and potentially chosen to ignore that hire would be very difficult to acquire. Additionally officers would need to prove that it was reasonable and safe for a taxi to stop if a driver ignored a disabled passenger hailing them.

CHAPTER 19 – REFORMING ENFORCEMENT

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

Response:

It would be useful for licensing officers to have the power to stop all licensed vehicles but it would have to be within prescribed limits, which should only be used in certain circumstances. There are health and safety issues that would need to be addressed to ensure the safety of licensing officers involved in this activity along with safeguards for the public.

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)

Response:

This is not currently a known problem in Medway.

We would recommend that a clearer definition is needed as to exactly what is meant by touting and soliciting. Should it only be limited to a public place? The whole issue of being able to enforce for touting needs to be looked at so that effective enforcement action can be taken.

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)

Response:

In theory this would be desirable provided clear definition was given as to under what circumstances this could be done.

However there would be practical issues involved such as where would any vehicles be stored and ensuring that the cost of impounding vehicles was met by the owner?

It would also depend on the expertise of the officer involved in impounding vehicles - this type of action would be likely to attract legal challenge, requests for compensation due to loss of earnings etc.

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

Response:

This could lead to local authorities being criticised as using as a way to increase revenue. We believe it would be easier to deal with by way of a penalty points system with referral to committee of a target reached with a view to suspension or revocation of the licence.

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

Response:

This will be difficult to put into practice, unless all local authorities are carrying out enforcement in the same way. e.g. a points system with identical values.

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)

Response:

Again - This will be difficult to put into practice, unless all local authorities are carrying out enforcement in the same way. e.g. a points system with identical values.

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)

Response:

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)

Response:

The existing system works well – right to a fair hearing by member panel or in the magistrates court.

Provisional proposal 72 - Appeals should continue to be heard in the magistrates' court. (Page 232)

Response:

We agree

Question 73 - Should there be an onward right of appeal to the Crown Court? (Page 233)

Response:

Only on particularly important points of law.

VALE OF GLAMORGAN COUNCIL RESPONSE

TO

THE LAW COMMISSION - REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

Background

The Law Commission was set up in 1965 to promote reform of the law. In May 2012 the Commission published its proposals for reforming the law of taxi and private hire services in a consultation document. The work, proposed by the Department for Transport has been carried out by the Law Commission independent of Government. The terms of reference for the work were:

‘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.’

Consultation

On 10 May 2012 the Law Commission published its provisional proposals along with associated questions. All parties were initially given until 10th August 2012 to submit responses to the proposals but this has recently been extended to 10th September 2012.

The Law Commission has advised that they plan to publish a final report with recommendations and a draft Bill to Parliament by late 2013.

Proposals and Questions

What follows is a summary of the Law Commission’s proposals followed by the considered response from the Vale of Glamorgan.

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. There is an opportunity, which should not be missed, to simplify and bring a much needed (and anticipated) modern piece of legislation to the Taxi Trade and Local Authority regulators alike.

The Vale of Glamorgan Council supports the opportunity for a one tier system to essentially give the public clear, understandable guidance and regulation which in turn would allow full compliance from the trade (without the endless search for loop holes and exemptions). A clear and transparent one tier system could establish and ensure this form of travel dovetails neatly into both local and national transport strategies. A one tier system would remove the distinction between regulation of taxis and PHV’s and simplify the entire licensing structure. The public neither know nor care about the difference and one tier would remove many of the concerns about issues such as illegal plying for hire.

The distinction between Taxis and Private Hire is historical due to poor outdated legislation. It is viewed that any vehicle used for hire and reward needs to be licensed to ensure as far a practically possible that the public are safe.

Practical and essential issues such as insurance cover for such vehicles could also be simplified through a one tier system. Currently cover exists for public hire for taxis and private hire for PHV’s, however due to the problems surrounding clauses in the Road Traffic Act, insurance companies are compelled to cover Third Parties. Those drivers who then wish to carry on their business not in accordance with the law cannot be successfully convicted for incorrect or lack of insurance in such cases. A one tier system could simplify this, one taxi, one type of insurance, all persons covered legally.

PROVISIONAL PROPOSAL 2

London should be included, with appropriate modifications, within the scope of reform.

RESPONSE

In principle having one national system is a good idea. However, the practicalities of the urban environment and the rural environment are very different and any standardisation would need to take this diversity into account.

If London were not included, other large cities could make a bid for special consideration and certain exemptions from the national solution.

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. With the clear proviso that the new legislation should apply to all vehicles seating 8 passengers or less - over 8 passengers should fall under the jurisdiction of the Traffic Commissioners with no overlap.

PROVISIONAL PROPOSAL (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 pedicabs, 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.

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 pedicabs 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

There may be merit in considering provision for local regulation of non-motorised vehicles whereby the licensed vehicle is bound by local conditions (including any testing requirements) and restricted to operating with the licensing authority area only.

To specifically restrict such vehicles from the licensing regime would mean that the vehicles would not be checked for safety nor would the driver be checked for fitness by any authority.

PROVISIONAL PROPOSAL 5

<p>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.</p>

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 unless approved for school transport purposes via some local authorities.

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. Reform could go further and restrict PSV licences to vehicles which have more than 8 passenger seats only. This would get rid of 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. There should be no distinction between Taxis and Private Hire Vehicles under a new single tier licensing system.

PROVISIONAL PROPOSAL 6

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

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, pedicabs are considered to be stage carriages (i.e. cannot be licensed) whereas in the rest of England and Wales pedicabs may be licensed as taxis.

RESPONSE

All horse drawn “stage coaches/stage carriages” should remain within the taxi licensing remit regardless of the number of passengers. This will remove the grey area within which some of these vehicles currently operate. Local standards may be prescribed to deal with this anomaly.

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

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.

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. This would be essential in providing consistency and closing a public safety loophole (perceived or actual) of a less onerous compliance standard than required by the private hire licensing regime. Reference in guidance should also be made to ensuring small public service vehicles are driven by “fit and proper” persons and that they are subject to a CRB check.

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 Traffic Commissioners.

It is a well known that 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.

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 PHV licensing to 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. There has been no consideration in this proposal in relation to the safety of the vehicle being used.

The majority of the exempted activities involve children or vulnerable adults and the emphasis quite rightly is in relation to the fitness of the driver and the correct CRB checks being carried out.

Concern must also however be in relation to the vehicle used. Who checks such vehicles for safety if they remain exempt? If a vehicle is used in a hire or reward capacity, the vehicle must surely be fit for purpose.

Perhaps some thought may be given to local standards being prescribed in relation to these types of operation and less onerous conditions being prescribed on the owners.

Concern is always expressed when asked to identify “genuine volunteers”. It is accepted that there is a need for “volunteers” who drive hospital patients to/from appointments in order to assist the health service but the issue of profit is very difficult to prove and again where are the safety checks on the vehicles used.

PROVISIONAL PROPOSAL (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

In response to Carpooling the vehicles in these circumstances seem to be overlooked. If there is an element of hire or reward involved then a licence should be required. Lesser standards may be prescribed in these cases by way of local standards or exemptions but nonetheless public safety is the key message.

If there is no hire or reward then agree no regulation would be required.

In response to Members’ Clubs: Same issues as Carpooling in respect of the need to ensure the safety of the vehicle. In addition, there are very many Members’ Clubs with varying types of activities and members. Examples include golf club members being transported from club to club on match days, similarly with other clubs. It is not clear why this type of transport cannot be supplied from existing private hire and taxi services instead of creating an exemption or separate category.

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 on the basis of consultation being undertaken with Local Authorities prior to any decision being made.

Emphasis must be given to the fact that English and Welsh taxi laws have historically been the same (with the exception of London) and should remain this way to prevent the disparity of standards currently being experienced.

PROVISIONAL PROPOSAL 11

Weddings and funerals should no longer be expressly excluded from private hire licensing through primary legislation.
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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. Vehicle safety is the key in relation to this proposal. Who currently ensures these vehicles are maintained and are fit for purpose?

Exclusive use of vehicles for funerals that are carrying passengers in the course of their business- there is an argument to say that the licensing regime should apply. However, less stringent licensing conditions may be imposed by way of local standards in these cases.

The current exemption for wedding cars is widely abused. It is commonly found that weddings now appear to last a week and transport often includes hen/stag nights plus conveyance of other guests and for transport to and from airports and other venues.

Any proposed exemptions and/or vehicles will need to be clearly defined.

PROVISIONAL PROPOSAL (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 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 without 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

There are no merits in the re-introduction of a contract exemption.

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. In this area the repeal has not caused any problems and it is believed more problems will be created by taking this unsupported proposed action. Education and health bodies would need to apply another level of regulation in an area within which they have no expertise – far better that they can require vehicles (and drivers) to be licensed for taxi use in the knowledge that the necessary checks are maintained.

In summary, 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 in unregulated vehicles. There is no argument which supports a reverse position – if anything; clearer regulation is needed in this area.

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.

PROVISIONAL PROPOSAL (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 trade 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 accesses these services on arrival should be a local and logistical matter not a licensing consideration.

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

There would be no need for a definition if a single tier licensing system were to be introduced.

Should two tier licensing continue then a statutory definition to 'plying for hire' may have merit but should be examined thoroughly to ensure that there are no unintended consequences, creating more loopholes and further difficulty for regulators in their role.

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

This is an example of another grey area. 'Plying for hire' still remains a difficult phrase to interpret in enforcement terms. Technology will advance and soon whatever is written to define what is acceptable and what is 'Plying for Hire' will be outdated. Loopholes will inevitably increase. There needs to be a single tier licensing system to obviate the need for this debate.

PROVISIONAL PROPOSAL (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

Disagree. The grey area debate will move to what is a public place and again as time goes on loopholes will be found and this may become an enforcement problem for the future. The concept of Private Hire Vehicles requiring a third party in order to be booked should remain, however, provision may be made for that to include the booking via the internet/smart phone/mobile to the licensed operator.

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 in respect of 'hailing' where 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

Agree with this proposal if a two tier system is to be retained.

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 Licensing Authority 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 enforcement action taken by a LA.

We can see an argument in favour of this if the burden of proof is on the driver. However, explanations from private hire drivers parked in busy night time economy locations are to 'pick up relatives'. Enforcement is difficult now in these cases but at the very least Local Authority Officers are able to check that the driver is licensed and is wearing the prescribed badge. This certainty will be lost.

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 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 Government to try to impose their interpretation on the legislation. Statutory guidance represents 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.

RESPONSE

Agree if a two tier system is retained.

PROVISIONAL PROPOSAL (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 if a two tier system to be retained. A one tier system would be a straight forward option and provide real clarity to the travelling public.

The public currently ask for a taxi when ordering a private hire vehicle by telephone. This is surely evidence for the confusion that exists by the public currently in relation to the difference between a taxi and a PHV. Allowing PHV’s to call themselves taxis or minicabs will only enhance the public’s view that there is no difference between the services.

PROVISIONAL PROPOSAL 24

Taxi and private hire services should each be subject to national safety requirements.

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

Whilst we agree that there should be National Safety Standards for taxis and private hire vehicles, we believe that those standards, which we regard as being vehicle safety standards, should be the same for both tiers.

We regard vehicle safety standards as being of paramount importance, because they will address matters such as roadworthiness, maintenance and the frequency and standards of testing and inspection of vehicles. In our view there can be no compromise on these standards and these standards need to be consistent across England and Wales to ensure that the consumer receives the same standard of service.

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. Taxis and PHV’s should be treated the same with minimum national safety standards with the licensing authority able to apply additional requirements which might relate to signage, testing, etc.

The ability of the licensing authority to set higher ‘quality’ standards on non-safety issues, for example vehicle signage, roof lights, colour / livery schemes etc., seems sensible and allows local control to be retained while giving the licensing authority flexibility to waive requirements (conditionally or otherwise).

The preferred approach would be a single tier system which would provide a clear and transparent position with national minimum standards for all vehicles supplemented with local conditions.

PROVISIONAL PROPOSAL 26

National safety standards, as applied to private hire services, should be mandatory standards.

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

Disagree. Private Hire Vehicles transport members of the public for a fee. Therefore they should meet the same safety standards as taxis.

Without knowing what the “minimum” safety standards are going to be it is impossible to answer this question any other way

A one tier system with a nationally set standard would be the preferred and simplest way forward.

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 of knowledge, whether through the route chosen or the ability of the driver to plan.

RESPONSE

We agree that the standard 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.

Whilst the need for a traditional topographical test, such as the internationally renowned ‘London knowledge’, should not be necessary for a private hire driver undertaking only pre-booked work and often using the satellite navigation systems that are becoming ever more sophisticated (*although these are by no means infallible and depend on the customer knowing the postal address of the destination*). Despite this, there may still be a need to include in a national driver test standard an assessment of a driver’s ability to use navigational equipment – satellite navigation, street map and road atlas – and to plan a route.

This section seems to place the emphasis on local knowledge tests where the drivers local knowledge (or lack of) will make virtually no difference whether in a taxi or private hire vehicle (and modern technology undermines this argument anyway).

Looking more broadly at the principal of this proposal brings us back to the fundamental question of why the difference – why is a private hire service so much safer than a taxi – either the standards are necessary for both or not.

There is no justification for treating the two services differently.

PROVISIONAL PROPOSAL (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

Local standards for private hire services should not be retained in respect of vehicle signage, especially if boundary operational areas are to be removed.

We question the need for these distinctions when a one tier system would involve a single vehicle clearly identifiable by the public through signage (including door signs), roof lights etc. Support would be strong for national templates for signage with an inbuilt ability for a licensing authority to add a brand.

We agree that the greatest concern must be about the risk to a consumer of using a bogus taxi or private hire vehicle – it is certainly not uncommon for consumers to be picked-up by a bogus vehicle and driver, which they mistakenly believed to be from the private hire firm with which they had booked a vehicle. That issue might be largely 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 ultimate solution in our view would be for signage requirements to be set within the national minimum standards. Consideration could be given to allowing local authorities discretion to grant conditional exemptions whereby ‘executive’ vehicles could be exempted from requirements to display external plates, but on the condition that they could only be used for pre-booked work. National requirements for plates could allow for local authorities to add their crest/brand.

PROVISIONAL PROPOSAL (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 licence 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

It would depend at what level the Standard is set. If the safety standard is set too high the Private Hire trade may struggle to reach this standard. Some districts licence a large number of Private Hire Vehicles in their areas whose sole work is centred on School Contracts as a result of the removal of the contract exemption.

However, remembering that taxis can also carry out private hire work there should be no difference in the standard between taxis and private hire vehicles. It is difficult to see why a private hire vehicle is considered to be a lesser risk than a taxi.

A single tier system with licensed and vetted owners (operators) vehicles and drivers with standards clearly set in national legislation would ensure the safety of both the driver and the travelling public.

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 Hackney Carriage and Private Hire Vehicles

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>

If certain signage is required as a national standard, and it is accepted that taximeter testing is a matter of consumer protection, it is difficult to understand why the appropriate vehicle safety standard should not be the existing Class 4 MOT test - frequency of testing could be another matter. If one were to take the view that in one year the average taxi or private hire vehicle did approximately four times the mileage of the average private motor car, one might reasonably conclude that taxis and private hire vehicles should be tested four times a year. However, it seems that this would be a level of detail to be determined by the Secretary of State and Welsh Ministers.

PROVISIONAL PROPOSAL (QUESTION) 30

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

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. In theory they should both be the same as the driver could find themselves in a dangerous situation regardless of what type of vehicle they are driving. However consideration must be given as to the level the National Condition is set. Some Private Hire drivers work similarly to the taxi trade at weekends whilst other Private Hire drivers only work on school runs.

However once again as in question 29 why should one class of driver or vehicle be a lesser risk than another?

We are of a view that a framework that provides maximum flexibility to enable the Secretary of State and Welsh Ministers and licensing Authorities to address driver safety (and any other issue) to be the most prudent way forward.

Whilst we would not currently expect it to be necessary to set a national standard for either tier of vehicle, we do appreciate that Transport for London, as the licensing authority for London, would be likely to wish to continue its practice of requiring a partition between the driver and passengers in taxis. We are not aware of other local licensing authorities that require such a partition but we would not wish to prevent a licensing authority from imposing such a requirement if they considered it necessary.

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

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

We agree that the main purpose of the licensing regime is to ensure public safety as far as practicably possible, whether this is by licensing a certain standard of vehicle or ensuring drivers with criminal or driving records that are below par are not given licences.

However, because of the number of LA's across the country and the varying standards applied there are inconsistencies which would be overcome by certain standards being set on a national basis.

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.

RESPONSE

Agree in principle. 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.

If there are subsequent appeals due to refusals of licence or conditions set based on the 'national safety standards' and those standards have been subject to comprehensive consultation it may give more weight to the decisions made.

The downside of a consultation process is that it can delay changes and amendments that may need to be taken to react to issues or problems. This could be a particular issue if there is an extended consultation period.

It may therefore be useful if a mechanism existed for certain types of decisions to be fast tracked without the need for full consultation if it is determined that the protection of public safety outweighs the benefits of consultation.

The standards must however be the same for England and Wales.

PROVISIONAL PROPOSAL (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

We consider that this would be best addressed by creating Regional Forums who would report to a National Technical Advisory Panel. Any such draft work could be scrutinised by an Independent Panel to assess the initial proposals 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.

PROVISIONAL PROPOSAL (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

Again without knowing what the National Minimum Standard will be it is difficult to say what local standards authorities would wish to introduce. Authorities should retain some power to set local taxi standards as a small example; what is suitable for rural areas may not be the same for inner city areas.

Each vehicle would require adequate testing as to its suitability and roadworthiness before a licence is issued. If mandatory conditions are enforced as to the size, type and design this may have an effect on small businesses and which may lead to a shortfall in vehicle availability.

There is a need to avoid vast differences between authorities which might continue to lead to 'licensing shopping' across local authorities.

PROVISIONAL PROPOSAL (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

As question 35 above

Currently, Licensing Authorities cannot impose conditions on Hackney Carriage Drivers nor individuals who operate only Hackney Carriages, therefore "retain" is not the correct term.

A more uniform (one tier system) approach to licensing conditions would be beneficial. There are currently vast differences in approach between authorities when dealing with applicants and as a result an individual who is refused a licence in one area might well be successful in another area. This is a clear public safety issue.

National guidelines on how authorities should deal with convictions and medical issues, CRB checks (frequency etc), when DVLA checks should be carried out, information sharing, disability training and the testing of drivers and operators on their knowledge of those conditions imposed upon them would be more beneficial and would deter 'licence shopping' between authorities.

In addition, if local authorities did use the power to impose local conditions on individuals and operators, how would this information be shared with other enforcement bodies in the absence of a national register?

PROVISIONAL PROPOSAL (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 already 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 informal or formal through 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

We believe it would be best left to individual Councils to make local arrangements. There are already many examples of voluntary collaborative working arrangements in Wales through individuals, Welsh Licensing Technical Panels and the Institute of Licensing Welsh Region.

We agree with the Law Commission that the creation of a new regulatory body for England and Wales would be an unnecessary expense especially in these times, and whilst not canvassed, transferring licensing to another regulatory body, such as VOSA, would serve no useful purpose.

That having been said it may be prudent to extend the enforcement powers traditionally exercisable by only a constable or an authorised officer to VOSA officers.

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

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 with removal of this option in order to simplify the service. The issue of the differing taxi fares is a smoke screen as the fares are the maximum which can be charged - lesser fares can be applied.

PROVISIONAL 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 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

Peak time licences would be almost impossible to control or regulate. In a regime where there is no limit on the number of licensed taxis, it is difficult if not impossible to envisage anyone applying for or agreeing to a restricted licence.

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

Strongly Disagree. This is a serious public safety concern which we have experience of. Those drivers and vehicles who are licensed ‘out of area’ are currently using the Vale of Glamorgan mainly on evenings and weekends, to ply illegally for hire.

The realism of this is that local authority officers are unable to tell whether the driver or vehicle is properly licensed, at this time. There are currently no powers for local authority officers to stop vehicles and the drivers are aware that the officers do not have the power to inspect ‘out of area’ vehicles and drivers.

The public will be confused about the service, being sent vehicles licensed by another authority, even though they have pre-booked their vehicle using a local firm.

If the proposal included the provision of a national register of drivers, vehicles and operators, this would provide a checking mechanism for licensing authorities when considering applications as well as providing information about revocations, refusals, etc as an aid to enforcement. However, we do not believe this to be the case.

Realistically, 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.

What do we tell members of the public who we are supposed to be safeguarding to look for to ensure a driver and vehicle are licensed?

This is another area which would benefit from a single tier system meaning all vehicles could stand and ply for hire in their home licensing authority area but could operate pre-booked only service outside the area under national standard conditions.

As an aside, in 2015 a vast majority of Personal Licence Holders will be required to renew their Personal Licences in accordance with the Licensing Act 2003.

The current system requires a Personal Licence Holder to tell a Court at the time of any conviction that he/she is a Personal Licence Holder and that the Court must then inform that person's home authority, so any action can be taken in relation to the licence should it be deemed necessary.

This system is completely reliant on the honesty of the Licence holder and the understanding and knowledge of the court that the home authority must be informed

Licensing authorities were originally advised that there would be a national database of Personal Licence holders so each authority could be immediately advised of their criminal convictions. This national data has not been forthcoming.

The extent to which Personal Licence Holders have declared any criminal convictions since 2003 for something that would have or will prevent them from holding such a licence will not be determined until 2015.

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>

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

Please refer to current enforcement issues described in 41 above. There are potential safety risks with this proposal. The public barely understands the difference between taxis

and PHV's now. To increase the availability of 'out of area' licensed vehicles without the public being aware of the need to pre-book together with the current trend in drivers who will essentially 'try their luck' on the increase, surely this provides increased opportunities for these drivers to break the law and bogus drivers to edge in on the market.

A single one tier licensed vehicle being used for hire and reward would surely simplify a host of such anomalies described.

PROVISIONAL PROPOSAL 43

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

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.

PROVISIONAL PROPOSAL (QUESTION) 44

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

Agree. 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 above.

In addition it is felt that all journeys should be recorded by the driver and kept available for inspection by officers should any complaints arise.

PROVISIONAL PROPOSAL (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

We believe that the national driver safety standards for England and Wales MUST be the same.

We agree that the vetting criteria should be set out in regulations but there are dangers in this approach where certain offences are omitted. Regulations could set out the relevant offence types to provide a more flexible schedule similar to that provided by the Home Office circular which is already in use by many licensing authorities. However we are mindful that these regularly need updating and this may be a prolonged process if set out in primary legislation.

The general powers given to the Secretary of State and Welsh Ministers must allow for flexibility for change when 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.

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. We believe that the vehicle owner should also be subject to a fit and proper test.

The owner of the vehicle is the person responsible for acquiring the necessary insurance, road fund licence and MOT certificate for the vehicle. This person must, therefore, be a “responsible” aka fit and proper person. There have been instances where owners will not rectify faults with vehicles until the vehicle fitness test is due, those who constantly fail to maintain vehicles should be considered in relation to being granted further licences.

PROVISIONAL PROPOSAL (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

We agree that 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.

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

Agree. 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 vehicle 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.

PROVISIONAL PROPOSAL (QUESTION) 49

Should operator licensing be extended to cover taxi radio circuits and, if so, on what basis?
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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. We consider that all journeys should either be booked via a licensed operator or if a taxi direct with the driver and all journeys should be recorded and receipted. This would essentially mean any third party taking bookings on behalf of any vehicle will require an operator's licence.

One of the problems with cross border hiring at present is that taxis licensed out of area are not required to keep records. Some maintain, when interviewed by the licensing authority, the booking was made direct to them via mobile phone. The need for records to be kept and maintained and the power for any licensing officer to inspect these records at the time may assist in compliance and enforcement methods by eradicating the reasonable excuse used presently of being pre-booked. An onus on the driver to prove he is pre-booked would be useful.

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 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.

PROVISIONAL PROPOSAL (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 that operators should be vetted. The nature of their work gives them access to personal information including knowledge of customers 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 but a record of who the booking was sub contracted to should be made.

PROVISIONAL PROPOSAL (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 requirement to keep records of pre-booked journeys might be reasonable, particularly if fare regulation did not apply to such journeys.

RESPONSE

Yes. Taxi drivers should be required to keep records and issue receipts to passengers in order to provide an audit trail.

Any such records should include the vehicle, driver, journey details and price paid. 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.

This would assist licensing authority officers with current problems of cross border hiring when taxis licensed 'out of area' not being required to keep records. Some maintain, when interviewed by licensing authority, the booking was made direct to them via mobile phone. The need for records to be kept and maintained and the power for any licensing officer to inspect these records at the time may assist in compliance and enforcement methods by eradicating the reasonable excuse used presently of being pre-booked. Onus on driver to prove he is pre-booked would be useful.

PROVISIONAL PROPOSAL 54

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

Under current law licensing authorities have the option of limiting taxi numbers, but only in the absence of "unmet demand". The Law Commission's provisional reform proposals therefore consider two main questions:

- (1) whether quantity restrictions should be abolished; and
- (2) whether there should be any transitional arrangements.

RESPONSE

Agree. This is a long overdue change and will negate the need for costly surveys used by licensing authorities to assess unmet demand in order to justify quantity restrictions.

PROVISIONAL PROPOSAL (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

May see a short term increase in vehicles but this may be negated by the introduction of national standards.

This we see as an opportunity to universally control numbers through quality at entry as opposed to purely numerical restrictions regardless of numbers.

PROVISIONAL PROPOSAL (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?

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

We agree that quality standards and regulation to maintain such standards is crucial.

It will be important to communicate clearly and effectively with the local Hackney Carriage and Private Hire trades regarding potential changes whether this be through central government or local policy. Proprietors invest heavily in their business so in fairness should be provided with facts to enable them to make informed decision regarding the future of their business(es).

PROVISIONAL PROPOSAL (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

(1) This proposal would be difficult to enforce. Not all disabilities are visible and are wide ranging and therefore the responsibility on the driver to know who is disabled and who is not, is not a reasonable one.

(2) Agree, in principle. However, in the Vale of Glamorgan we currently licence a mixed fleet of saloons and wheelchair accessible vehicles with numerous vehicle body types. This works well without any special provision for rank space for wheelchair accessible only vehicles. Experience tells us that many disabled persons do not appreciate being segregated from society and therefore integration is a key factor of this proposal.

PROVISIONAL PROPOSAL (QUESTION) 58

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

RESPONSE

We do not support this suggestion as our understanding is that the requirement of the licensing regime is that 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 other licensed vehicles.

Another factor to bear in mind is the many and varied forms of disability, meaning that not all disabled passengers want to travel in a wheelchair accessible vehicle as some will find a saloon car more accessible to them.

PROVISIONAL PROPOSAL (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

Currently in the Vale of Glamorgan we do not require licensed vehicles to be wheelchair accessible although some operators voluntarily provide them. This has not been the subject of any complaints from customers.

It may be useful if national mandatory training is made available and offered at a reduced cost to drivers to receive awareness of the many different disabilities and how to provide for the safe assistance to passengers. Criticism is received that due to the many different types of wheelchairs and indeed disabilities, drivers need to keep up to date with new clamps and straps available for use to ensure the safe passage of their customers.

Training in turn would provide the confidence and awareness drivers require in order to carry those with such disabilities.

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. This would be a reasonable approach if relevant national training was more widely available to cover recommended approaches and techniques.

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

Agree

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

Disability awareness is seen as an important element of any National Standards of both taxi and PHV drivers. Licensing Authorities recognise the need to ensure measures are taken by drivers to prevent discrimination against people with disabilities.

Proposals would need to weigh up the extent and nature of awareness training needed against the additional burdens, financial and otherwise, which would need to be borne by applicants and/or the Authority.

The nature of any proposed awareness training would also need careful consideration to prevent the possibility of delays in the application process caused by applicants waiting for awareness training.

Therefore, careful consideration is needed as to :-

- 1) Who provides the training?
- 2) Where and when can this be made available to applicants?
- 3) Would there be a waiting list or delay to access the course?
- 4) What cost to applicants / the authority?

Any such training must however be provided to the same standard in England and Wales.

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

PROVISIONAL PROPOSAL (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

A standard mandatory requirement for roof lights which are connected to the taxi meter to show when the vehicle is available for hire may assist.

It seems a reasonable proposal that drivers be obliged to stop for any passengers when hailed provided they are obviously available for hire. There should be no distinction for disabled passengers as the driver may not be aware that the person hailing them is disabled, and it should be a clearer directive that they stop for any person hailing them provided it is safe to do so.

It would have to be made clear that a taxi should not be permitted to show that he was available for hire unless he is permitted to ply for hire in that district.

There may also be difficulties in proving an offence of failing to stop for a person when hailed due to the safety considerations. It is difficult to ascertain whether, at the time of the alleged hail, was it a safe place to stop?

Better promotion of rank location (presuming there are accessible vehicles on the ranks) and/or publication of contact details for firms which have accessible vehicles may be more useful to the customer who finds it difficult to hail an accessible vehicle.

There could also be a benefit to tying this issue in with proposal 27 in relation to vehicle standards – could mandatory signage in relation to WAV assist – an issue is not only with the vehicle proprietor/drivers, but that persons with disabilities are not always aware that vehicles have – swivel seats, ramps etc. Education of people with disabilities would also assist.

PROVISIONAL PROPOSAL (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

Again in an ideal world this would assist officers when undertaking enforcement and would lessen the burden on other agencies such as the Police.

However whilst the prospect of officers having the power to stop vehicles is superficially attractive, it poses practical problems.

Stop check exercises are an invaluable enforcement tool. At present they are conducted with the police, using police officers to stop vehicles. Results of random stop check of private hire vehicles in some areas find around 40% with safety related faults, quite apart from breaches of licence conditions around the display of signs or badges for instance.

The power to stop a vehicle on the highway has traditionally been reserved for police officers in uniform. It is thought unlikely that licensing officers would or could attempt to stop vehicles in the way in which a police motorcyclist might pull vehicles to the side of the road in moving traffic. There are significant safety risks associated with trying to stop vehicles in moving traffic. Officers would need to be trained, but there would also be problems around identifying the officer. Motorists know that they must stop for a uniformed police officer. How would a taxi driver be able to recognise that the person asking him to stop was a Licensing Enforcement Officer?

We believe that a more useful power would be similar to the power held by Inspectors of Weights and Measures (Trading Standards Officers) under the Road Traffic Act 1988 to direct a vehicle once stopped, to proceed to a weighbridge; it does not enable the officer to stop a vehicle on the highway. Such a power would be useful to enable officers to require a driver to move to a suitable location whilst a check of his vehicle was carried out. It would also be useful to prevent a driver moving off to avoid an Enforcement Officer's approach if the officer could direct him to stay where he was or to move to a particular location.

However, this question ignores the problem of how to deal with unlicensed vehicles and drivers who pose as taxis. We therefore believe that the power of officers to be able to direct vehicles and drivers to remain stationary or to require them to move to a particular location should be applicable to unlicensed vehicles or drivers where the officer has reasonable grounds to suspect that the driver is behaving as if he is a licensed taxi or private hire vehicle. This would enable officers to deal with unlicensed taxis, but it would not go so far as to extending their power to enable them to give directions to any or all motorists or vehicles.

PROVISIONAL PROPOSAL (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

We would support a complete ban on touting not just in a public place.

PROVISIONAL PROPOSAL (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

Agree in principle but there would need to be in place definitive guidelines for officers to follow. There are also obvious concerns regarding costs and practicalities of impounding vehicles. However, if this goes forward, it is suggested that a regional facility for impounding vehicles could exist to dovetail into Police and VOSA officer powers.

The issue of insurance cover is a complicated one if used as the purpose for impounding. Authorities across Wales are experiencing problems when vehicles used to illegally ply for hire are reported in conjunction with the offence of no insurance. Magistrates will not accept that there is an offence of 'no insurance' if a licensed PHV driver has been found guilty of illegally plying for hire, if there is valid insurance in place for that vehicle, even though within the terms of the insurance it specifically excludes public hire purposes. The insurance company must, if a valid insurance certificate is in place, cover that journey for third party purposes, therefore insurance remains in place. There could be serious implications if insurance related reasons for impounding vehicles were used here.

PROVISIONAL PROPOSAL (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, but for prescribed offences only. To criminalise a person for not wearing a badge is a prime example of where this type of action would be appropriate especially if the driver is not licensed and known to the officer. One issue for enforcement officers when issuing such notices would be the power to require the correct name and address for the person, again this power would need to be prescribed to licensing officers.

There is general support for developing fixed penalty schemes for licensing authorities to use for breaching taxi and private hire licensing rules. Prosecution is time consuming and costly. We agree that fixed penalties are only appropriate in very clear cut cases, such as not wearing a badge or not displaying the correct licence plates or signs or ranking inappropriately, for instance. They may be used as part of an authority's enforcement tools in circumstances and occasions defined by the authority's enforcement policy.

Consideration could also be given to the use of education as an enforcement tool. Many offences or breaches of conditions occur because drivers have not read or not understood (particularly where English is not a first language) their conditions of licence. We favour having the ability to require drivers to attend training courses (whether delivered in-house by the local authority or externally) as either an alternative or an addition to some other form of penalty, such as a simple caution, for instance, or perhaps a fixed penalty.

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

Agree that enforcement officers should have the power to enforce against vehicles, drivers and operators licensed in other licensing areas especially if local authority boundaries are removed for the purpose of PHV's.

Cross-border issues are of particular concern to our Local Authority where drivers licensed outside are attracted by the higher number of customers in our vibrant night time economy and to circumvent particular neighbouring authorities' licensing standards.

After licensing themselves as hackney carriages, they choose to work as private hire drivers wherever they wish. A consequence of this is that the authority where they work cannot enforce against them for breaching the conditions of the issuing authority's licence or for acts that would have been a breach of its own conditions of licence. They may only take legal action for the commission of a criminal offence.

Cross-border enforcement will be far more feasible with national standards but in the absence of national registers will remain extremely problematic for the reasons mentioned in our response to proposals 41 and 42.

Disagree wholeheartedly with the proposal to enable private hire operators to use drivers and vehicles licensed in another district.

PROVISIONAL PROPOSAL (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?
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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

We consider that cross border enforcement should be restricted to the issue of fixed penalty notices and immediate suspensions in relation to vehicle fitness only for prescribed offences e.g. fixed penalty notice on driver for not wearing prescribed badge and immediate suspension notice issued if vehicle deemed unfit for use e.g. doors unable to open from inside of vehicle due to failure.

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

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.

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

It does not seem practical (or fair) that a licensing authority should review its own decision unless there has been a material change in circumstances. Effectively this is a second decision by the original authority and delays the applicant's right of appeal to an independent tribunal (the courts).

If the council has made its decision, requiring it to have a second bite at the cherry is likely to be a waste of time and effort. Far better to have the matter go to appeal at the magistrates court.

The danger of this proposal is that officer decisions under delegated powers will be overruled by councillors on reconsideration – but they are all acting as the Council, so it is a recipe for confusion and distrust as the perception will be that the council is biased as a result of its previous decision.

The re-hearing option will also have cost implications for the licensing authority. Bearing in mind the perception of unfairness we would question the wisdom of providing for a re-consideration hearing.

PROVISIONAL PROPOSAL 72

Appeals should continue to be heard in the magistrates' court.

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

Agree, however taxi cases can currently go directly to the Crown Court.

PROVISIONAL PROPOSAL (QUESTION) 73

Should there be an onward right of appeal to the Crown Court?
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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 with the onward right of appeal to the Crown Court but do not agree with the proposal to provide a first right appeal of reconsideration by the licensing authority for the reasons provided in proposal response 71.

**CITY AND COUNTY OF SWANSEA RESPONSE
THE LAW COMMISSION - REFORMING THE LAW OF TAXI AND PRIVATE
HIRE SERVICES**

Introduction

The City and County of Swansea welcomes the opportunity to provide comments on the proposed reform of taxi and private hire licensing laws. The reform is considered necessary to modernise the existing legislation and make it suitable for taxi and private hire licensing today. There are much needed changes to address the many issues that arise from existing licensing controls.

This response details the views of the City and County of Swansea in respect of the proposals and questions provided in the full consultation paper.

PROVISIONAL PROPOSAL 1 (page160)

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.
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RESPONSE

We would disagree with this proposal.

This review provides an opportunity, which should not be missed, to simplify and bring a much needed (and anticipated) modern piece of legislation to the taxi trade and local authority regulators alike.

The City and County of Swansea supports the introduction of a one tier system. This would give the public a clear understanding of the taxi trade as the general public do not necessarily know or in fact care about the differences between taxis and private hire vehicles. A one tier system would also allow for full compliance from the trade (without the endless search for loop holes and exemptions). A clear and transparent one tier system could establish and ensure this form of travel dovetails neatly into both local and national transport strategies.

The distinction between Taxis and Private Hire is historical due to poor outdated legislation. It is our view that any vehicle used for hire and reward needs to be licensed to ensure as far a practically possible that the public are safe.

Practical and essential issues such as Insurance cover for such vehicles could also be simplified through a one tier system. Currently cover exists for public hire for taxis and private hire for PHV's but due to the problems surrounding clauses in the Road Traffic Act, insurance companies are compelled to cover Third Parties. Those drivers who then wish to carry on their business in contravention of the law cannot be successfully convicted for incorrect or lack of insurance in such cases. A one tier system could simplify this, one taxi, one type of insurance, all persons covered legally.

PROVISIONAL PROPOSAL 2 (page 162)

London should be included, with appropriate modifications, within the scope of reform.

RESPONSE

In principle this is a good idea to have one national system to deal with this issue, however, the practicalities of the urban environment and the rural environment are very different and any standardisation would need to take this diversity into account.

How many other large cities could make a bid for special consideration and certain exemptions from the National picture if London was treated differently?

PROVISIONAL PROPOSAL 3 (page 164)

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.

With the clear proviso that the new legislation should apply to all vehicles seating 8 passengers or less - over 8 passengers should fall under the jurisdiction of the Traffic Commissioners with no overlap.

QUESTION 4 (page 164)

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

RESPONSE

There may be merit in considering provision for local regulation of non-motorised vehicles whereby the licensed vehicle is bound by local conditions (including any testing requirements) and restricted to operating in the licensing authority area only.

To specifically restrict such vehicles from the licensing regime would mean that the vehicles would not be checked for safety nor would the driver be checked for fitness by any authority.

PROVISIONAL PROPOSAL 5 (page 165)

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.

RESPONSE

Agree.

Reform could go further and restrict PSV licences to vehicles which have more than 8 passenger seats only. This would get rid of 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.

PROVISIONAL PROPOSAL 6 (page 166)

References to stage coaches charging separate fares should no longer feature as an exclusion from the definition of 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 (page 167)

<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>

RESPONSE

Agree.

This would be essential in providing a level of consistency and closing a public safety loophole (perceived or actual) of a less onerous compliance standard than required by the private hire licensing regime. Reference should also be made regarding ensuring that public service vehicles are driven by “fit and proper” persons and that they have been subject to an enhanced CRB check. It is a well known that 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.

Limousines (especially stretched limousines) and novelty vehicles should also 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 Traffic Commissioners.

PROVISIONAL PROPOSAL 8 (page 168)

<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 exclude genuine volunteers as well as activities where transport is ancillary to the overall service.</p>

RESPONSE

Disagree.

There has been no consideration in this proposal to the safety of the vehicle being used.

The majority of the exempted activities involve children or vulnerable adults and the emphasis quite rightly is in relation to the fitness of the driver and the correct CRB checks being carried out.

Concern must also however be in relation to the vehicle used. Who checks such vehicles for safety if they remain exempt? If a vehicle is used in a hire or reward capacity, the vehicle must surely be fit for purpose.

Perhaps some thought may be given to local standards being prescribed in relation to these types of operation and less onerous conditions being prescribed in respect of the owners.

It is very difficult to identify “genuine volunteers”. It is accepted that there is a need for “volunteers” who drive hospital patients to/from appointments in order to assist the health service but the issue of profit is very difficult to prove and again where are the safety checks on the vehicles used

QUESTION 9 (page170)

<p>How, if at all, should the regulation of taxis and PHVs deal with (a) carpooling; and (b) members' clubs?</p>
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RESPONSE

In response to Carpooling: Again the vehicles in these circumstances seem to be overlooked. If there is an element of hire or reward involved then a licence should be required. Lesser standards could be prescribed in these cases by way of local standards or exemptions but nonetheless public safety is the key message. If there is no hire or reward then we would agree, no regulation would be required.

In response to Members' Clubs: The same issues as Carpooling apply in respect of the need to ensure the safety of the vehicle. In addition, there are very many Members' Clubs with varying types of activities and members. If there is an element of hire and reward then a licence should be required.

PROVISIONAL PROPOSAL 10 (page 171)

<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>

RESPONSE

Agree on the basis of consultation being undertaken with Local Authorities prior to any decision being made.

There should not be different licensing requirements for England and Wales. English and Welsh taxi laws have historically been the same (with the exception of London) and should remain this way to prevent the differing standards that we are experiencing at present.

PROVISIONAL PROPOSAL 11 (page172)

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

RESPONSE

Agree.

Vehicle safety again is the key in relation to this proposal. Who currently ensures that these vehicles are maintained and are fit for purpose? Exclusive use of vehicles for funerals that are carrying passengers in the course of their business means that there is an argument that the licensing regime should apply. Less stringent licensing conditions could be imposed by way of local standards in these cases.

The current exemption for Wedding cars is widely abused. There is a growing market for “occasion” hire including hen/stag parties, prom nights and others in addition to conventional wedding hire. There is a need to bring these vehicles into the licensing regime.

Any proposed exemptions must be clearly defined.

QUESTION 12 (page 174)

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?

RESPONSE

There are no merits in the re-introduction of a contract exemption.

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. In this area the repeal has not caused any problems and it is believed more problems will be created by taking this proposed action. This would mean that education and health bodies would need to apply another level of regulation in an area within which they have little or no expertise. It would be far better that they can use vehicles (and drivers) that are licensed for taxi use, in the knowledge that the necessary checks are maintained.

There is no argument which supports this proposal. If anything, clearer regulation is needed in this area.

PROVISIONAL PROPOSAL 13 (page 175)

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

RESPONSE

Agree, this should be any place within the district.

QUESTION 14 (page177)

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?
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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 (page 181)

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 PHVs.

RESPONSE

There would be no need for this if a single tier licensing system were to succeed.

If a two tier licensing is maintained then a statutory definition of ‘plying for hire’ may have merit but should be examined thoroughly to ensure that there are no unintended consequences, creating more loopholes and further difficulty to regulators in their role.

PROVISIONAL PROPOSAL 16 (page181)

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

RESPONSE

This is an example of more grey area. ‘Plying for hire’ still remains a difficult phrase to interpret into enforcement terms. Technology will advance and soon whatever is written to define what is acceptable and what is ‘Plying for Hire’ will be outdated. Loopholes will inevitably increase. There needs to be a single tier licensing system to eradicate this debate.

QUESTION 17 (page182)

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”?

RESPONSE

The debate will move to what is a public place and again as time goes on loopholes will be found and this may become an enforcement problem of the future. The concept of Private Hire Vehicles requiring a third party in order to be booked should remain however provision may be made for that to include the booking via the internet/smart phone/mobile to the licensed operator.

PROVISIONAL PROPOSAL 18 (page182)

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

Agree compellability should be retained however this does not currently apply in respect of 'hailing' where 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 (page 183)

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.

RESPONSE

Agree with this proposal if a two tier system is to be retained.

PROVISIONAL PROPOSAL 20 (page 184)

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.

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

Licensing Authority 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.

We can see an argument in favour of this if the burden of proof would be on the driver. However, many explanations from private hire drivers parked in busy night time economy locations are to 'pick up relatives'. Enforcement is difficult now in these cases but at the very least Local Authority Officers are able to check that the driver is licensed and is wearing the prescribed badge. This certainty will be lost.

PROVISIONAL PROPOSAL 21 (page 185)

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

RESPONSE

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 (page 185)

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

RESPONSE

Agree if a two tier system is retained.

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?
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RESPONSE

No, if a two tier system is to be retained. A one tier system would be a straight forward option and provide real clarity to the travelling public.

The public currently ask for a taxi when ordering a private hire vehicle by telephone, this is surely the reason for the confusion that exists by the public currently in relation to the difference between a taxi and a PHV. Allowing PHV's to call themselves taxis or minicabs will only enhance the public's view that there is no difference between the services.

PROVISIONAL PROPOSAL 24 (page 188)

Taxi and private hire services should each be subject to national safety requirements.
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RESPONSE

Whilst we agree that there should be National Safety Standards for taxis and private hire vehicles, we believe that those standards should be the same for both tiers.

We regard vehicle safety standards as being of paramount importance, because they will address matters such as roadworthiness, maintenance and the frequency and standards of testing and inspection of vehicles. In our view there can be no compromise on these standards and these standards need to be consistent across England and Wales to ensure that the consumer receives the same standard of service.

PROVISIONAL PROPOSAL 25 (page 189)

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

RESPONSE

Agree. Taxis and PHV's should be treated the same with minimum national safety standards with the licensing authority able to apply additional requirements which might relate to signage, testing, etc.

The ability of the licensing authority to set higher 'quality' standards on non-safety issues, for example vehicle signage, roof lights, colour / livery schemes etc., seems sensible and allows local control to be retained while giving the licensing authority flexibility to waive requirements (conditionally or otherwise).

The preferred approach would be a single tier system as it would provide a clear and transparent position with national minimum standards for all vehicles and local conditions but again treating all vehicles the same except where individual conditions are applied to offset certain exemptions such as signage etc.

PROVISIONAL PROPOSAL 26 (Page 189)

National safety standards, as applied to private hire services, should be mandatory standards.
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RESPONSE

Disagree. Private Hire services are still transporting members of the public for a fee, therefore should have the same level of safety standards as required for taxis.

Without knowing what the “minimum” safety standards are going to be it is impossible to answer this question any other way

A one tier system with a nationally set standard would be the preferred and simplest way forward

PROVISIONAL PROPOSAL 27 (page 190)

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.

RESPONSE

We agree that the standard 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.

Whilst the need for a traditional topographical test, such as the internationally renowned ‘London knowledge’, should not be necessary for a private hire driver undertaking only pre-booked work and often using the satellite navigation systems that are becoming ever more sophisticated (*although these are by no means infallible and depend on the customer knowing the postal address of the destination*), there may still be a need to include in a national driver test standard an assessment of a driver’s ability to use navigational equipment such as satellite navigation, street maps and road atlas and details as to how to plan a route. There is doubt as to whether the planning of routes is

actually undertaken. A more favoured mode of planning by the driver usually includes the asking of passengers for directions.

Looking more broadly at the principal of this proposal brings us back to the fundamental question of why the difference? Why is a private hire service so much safer than a taxi? Either the standards are necessary for both or not. There is no justification for treating the 2 services differently.

QUESTION 28 (page 190)

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?
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RESPONSE

Local standards for private hire services should not be retained in respect of vehicle signage, especially if boundary operational areas are to be removed.

We question the need for these distinctions when a one tier system would involve a single vehicle clearly identifiable to the public through signage (including door signs), roof lights etc. Support would be strong for national templates for signage with an inbuilt ability for licensing authority to add brand.

We agree that the greatest concern must be about the risk to a consumer of using a bogus taxi or private hire vehicle. It is certainly not uncommon for consumers to be picked-up by a bogus vehicle and driver, which they mistakenly believed to be from the private hire firm with which they had booked a vehicle. That issue might be largely 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 ultimate solution in our view would be for signage requirements to be set within the national minimum standards. Consideration could be given to allowing local authorities discretion to grant conditional exemptions whereby 'executive' vehicles could be exempted from requirements to display external plates, but on the condition that they could only be used for pre-booked work. National requirements for plates could allow for local authorities to add their crest/brand.

QUESTION 29 (page 191)

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

RESPONSE

It would depend at what level the Standard is set. If the safety standard is set too high to cater for the Taxi trade, then the Private Hire Trade may struggle to reach this standard, some districts have a large number of Private Hire Trade in their areas whose sole work are centred on School Contracts as a result of the removal of the contract exemption.

However, remembering that taxis can also carry out private hire work there should be no difference to the standard between taxis and private hire vehicles. It is difficult to see why a private hire vehicle is considered to be of a lesser risk than a taxi.

A single tier system with licensed and vetted owners (operators) vehicles and drivers with standards clearly set in national legislation would ensure the safety of both the driver and the travelling public.

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 HC and PH vehicles

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>

If certain signage is required as a national standard, and it is accepted that taximeter testing is a matter of consumer protection, it is difficult to understand why the appropriate vehicle safety standard should not be the existing Class 4 MOT test - frequency of testing could be another matter. If one were to take the view that in one year the average taxi or private hire vehicle did approximately four times the mileage of the average private motor car, one might reasonably conclude that taxis and private hire vehicles should be tested four times a year. However, it seems that this would be a level of detail to be determined by the Secretary of State and Welsh Ministers.

QUESTION 30 (page 192)

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

RESPONSE

No. In theory they should both be the same as the driver could find themselves in a dangerous situation regardless of what type of vehicle they are driving. However consideration must be given as to what level the National Condition is set at. Some Private Hire drivers work similar to the taxi trade at weekends, and some Private Hire drivers only work on school runs.

However once again as in question 29 why should one class of driver or vehicle be of a lesser risk than another?

We are of a view that a framework that provides maximum flexibility to enable the Secretary of State and Welsh Ministers and licensing Authorities to address driver safety (and any other issue) to be the most prudent way forward.

Whilst we would not currently expect it to be necessary to set a national standard for either tier of vehicle, we do appreciate that Transport for London, as the licensing authority for London, would be likely to wish to continue its practice of requiring a partition between the driver and the passengers in taxis, as may other authorities. Likewise, we are unaware of other local licensing authority that require such a partition but we would not wish to prevent a licensing authority from doing so if they considered it necessary.

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 (page 192)

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

We agree that the main purpose of the licensing regime is to ensure public safety as far as practicably possible, whether this is by licensing a certain standard of vehicle or ensuring that drivers with criminal or driving records that are below par are not given licences.

However, because of the number of LA's across the country and the varying standards applied there are inconsistencies, which would be overcome by certain standards being set on a national basis.

PROVISIONAL PROPOSAL 32 (page 193)

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

RESPONSE

Agree in principle. Statutory consultation requirements are becoming more common and useful, especially for ensuring that 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.

If there are subsequent appeals due to refusals of licence or conditions set, based on the 'national safety standards' and those standards have been subject to comprehensive consultation it may give more weight to the decisions made.

The downside of a consultation process is that it can delay changes and amendments that may need to be taken to react to address issues or problems. This could be a particular issue if there is an extended consultation period.

It may therefore be useful for some mechanism for certain types of decisions to be taken without the need for full consultation, if it is determined that the protection of public safety outweighs the benefits of consultation. This may be especially useful if the changes being made are as a result of consultation or investigations made (i.e. university studies, vehicle trade reports etc.) and there is no need for duplication.

These standards must however be the same for England and Wales.

QUESTION 33 (page 193)

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?

RESPONSE

We consider that this would be best addressed by creating Regional forums who would report to a National Technical Advisory Panel. Any such draft work could be scrutinised by an Independent Panel to assess the initial proposals then to go out to consultation.

PROVISIONAL PROPOSAL 34 (page 193)

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

RESPONSE

Agree.

QUESTION 35 (page 194)

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

RESPONSE

Again without knowing what the National minimum standard will be it is difficult to say what local standards Authorities would wish to introduce. Authorities should retain some power to set local taxi standards as a small example; what is suitable for rural areas may not be the same for inner city areas.

Each vehicle would require adequate testing as to its suitability and roadworthiness before a licence is issued. If mandatory conditions are enforced as to the size, type and design this may have an effect on small businesses and which may lead to a shortfall in vehicle availability.

There is a need to avoid vast differences between authorities which might continue to lead to "licence shopping" across local authorities.

QUESTION 36 (page 194)

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

RESPONSE

As question 35 above

Currently Licensing Authorities cannot impose conditions on Hackney Drivers nor in turn operators if using only Hackney Carriages therefore "retain" is not the correct term.

A much more uniformed (one tier system) approach to licensing conditions would be beneficial. There are current vast differences in approach between authorities when dealing with applicants and as a result an individual who is refused a licence in one area might well be successful in another area. This is a clear public safety issue.

National guidelines on how authorities should deal with convictions and medical issues, CRB checks (frequency etc), when DVLA checks should be carried out, information sharing, disability training and the testing of drivers and operators on their knowledge of those conditions imposed upon them would be more beneficial and would deter licence shopping between authorities.

In addition, if local authorities did use the power to impose local conditions on individuals and operators, how would this information be shared with other enforcement bodies in the absence of a national register?

QUESTION 37 (page 195)

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

RESPONSE

We believe it would be best left to individual Councils to make local arrangements. There are already many examples of voluntary collaborative working arrangements in Wales through individuals, Welsh Licensing Technical Panels and the Institute of Licensing, Welsh Region.

We agree with the Law Commission that the creation of a new regulatory body for England and Wales would be an unnecessary expense especially in these times, and whilst not canvassed, transferring licensing to another regulatory body, such as VOSA, would serve no useful purpose.

That having been said it may be prudent to extend the enforcement powers traditionally exercisable by only a constable or an authorised officer to VOSA officers.

PROVISIONAL PROPOSAL 38 (page 196)

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

Agree.

PROVISIONAL PROPOSAL 39 (page 196)

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

RESPONSE

Agree with removal of this option in order to simplify the service.

The issue of the differing taxi fares is a smoke screen as the fares are the maximum charges and lesser fares can be applied.

QUESTION 40 (page 197)

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

RESPONSE

Peak time licences would be almost impossible to control or regulate. In a regime where there is no limit on the number of licensed taxis, it is difficult if not impossible to envisage anyone applying for or agreeing to a restricted licence.

PROVISIONAL PROPOSAL 41 (page 198)

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.

RESPONSE

Disagree. This is a serious public safety concern that is currently happening in the City & County of Swansea area.

Those drivers and vehicles who are licensed 'out of area' are currently using Swansea's vibrant night time economy, mainly on evenings and weekends, to illegally ply for hire. Neighbouring local authority

licensing standards are vastly different to ours and are currently more inviting.

The realism of this is that local authority officers are unable to tell whether the driver or vehicle is properly licensed, at this time. There is currently no power for local authority officers to stop vehicles and the drivers are aware that the officers do not have the power to inspect 'out of area' vehicles and drivers.

This in addition compromises our public safety campaign. Our vehicle colour policy of black taxis and white PHV's does not match neighbouring authority policy of the licensing of any colour. The public are being confused about the messages as they are being sent vehicles licensed by another authority even though they have pre-booked their vehicle using a local firm.

If the proposal included the provision of a national register of drivers, vehicles and operators, at least this would provide a checking mechanism for licensing authorities when considering applications as well as providing information about revocations, refusals, etc as an aid to enforcement. However, we do not believe this to be the case.

Realistically, 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.

What do we tell members of the public we are supposed to be safeguarding to look for?

This is another area which would benefit from a single tier system meaning all vehicles could stand and ply for hire in their home licensing authority area but could operate pre-booked only service outside the area under national standard conditions.

PROVISIONAL PROPOSAL 42 (page 199)

The Law Commission does not propose the introduction of a "return-to-area" requirement in respect of out-of-area drop offs.

RESPONSE

Please refer to current enforcement issues described in 41 above. There are potential safety risks with this proposal. The public barely understand the difference between taxis and PHV's now, to increase the availability of 'out of area' licensed vehicles without the public being aware of the need to pre-book and those drivers who will essentially 'try their luck' are on the increase, surely this opens the market for those drivers and bogus drivers to edge in on the market too.

A single one tier licensed vehicle being used for hire and reward would surely simplify a host of such anomalies described.

PROVISIONAL PROPOSAL 43 (page 200)

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

Agree.

QUESTION 44 (page 200)

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

Agree. 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 work be permitted to be agreed off the meter and agreed in advance with the customer, as described above.

In addition it is felt that all journeys should be recorded by the driver and kept available for inspection by officers should any complaints arise. The type of information to be recorded by drivers should be nationally set.

QUESTION 45 (page 203)

Should national driver safety standards such as the requirement to be a "fit and proper" person be either:
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a. set out in primary legislation; or

b. included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions?

RESPONSE

We believe that the national driver safety standards for England and Wales MUST be the same.

We agree that the vetting criteria should be set out in regulations but there are dangers in this approach where certain offences are omitted. Regulations could set out the relevant offence types to provide a more flexible schedule similar to that provided by the Home Office circular which is already in use by many licensing authorities. However we are mindful that these regularly need updating and this may be a prolonged process if set out in primary legislation.

The general powers given to the Secretary of State and Welsh Ministers must allow for flexibility for change when required.

PROVISIONAL PROPOSAL 46 (page 204)

Vehicle owners should not be subject to "fit and proper" tests and the criteria applied would relate solely to the vehicle itself.

RESPONSE

Disagree. We believe that the vehicle owner should also be subject to a fit and proper test.

The owner of the vehicle is the person responsible for acquiring the necessary insurance, road fund licence and MOT certificate for the vehicle. This person must, therefore, be a "responsible" i.e. fit and proper person. There have been instances where owners will not rectify faults with vehicles until the vehicle fitness test is due, those who constantly fail to maintain vehicles should be considered in relation to being granted further licences.

QUESTION 47 (page 205)

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?

RESPONSE

We agree that 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 (page 207)

Operator licensing should be retained as mandatory in respect of PHVs.
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RESPONSE

Agree. 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 (page 208)

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

RESPONSE

Yes. We consider that all journeys should either be booked via a licensed operator or if a taxi, direct with the driver and all journeys should be recorded and receipted. This would essentially mean any third party taking bookings on behalf of any vehicle will require an operator's licence.

One of the problems with cross border hiring at present is that taxis licensed out of area are not required to keep records. Some maintain, when interviewed by licensing authority, the booking was made direct to them via mobile phone. The need for records to be kept and maintained and the power for any licensing officer to inspect these records at the time may assist in compliance and enforcement methods by eradicating the reasonable excuse used presently of being pre-booked. Onus on driver to prove he is pre-booked would be useful.

PROVISIONAL PROPOSAL 50 (page 209)

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

RESPONSE

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 (page 210)

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

RESPONSE

Agree that operators should be vetted. The nature of their work gives them access to personal information including knowledge of customers holidays / absences etc. All staff working for a licensed operator should also be vetted for the same reasons.

PROVISIONAL PROPOSAL 52 (page 210)

Operators should be expressly permitted to sub-contract services.

RESPONSE

Agree but a record of who the booking was sub contracted to should be made.

QUESTION 53 (page 210)

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

RESPONSE

Yes. Taxi drivers should be required to keep records and issue receipts to passengers in order to provide an audit trail.

Any such records should include the vehicle, driver, journey details and price paid. 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.

This would assist licensing authority officers with current problems of cross border hiring when taxis licensed 'out of area' not being required to keep records. Some maintain, when interviewed by licensing authority, the booking was made direct to them via mobile phone. The need for records to be kept and maintained and the power for any licensing officer to inspect these records at the time may assist in compliance and enforcement methods by eradicating the reasonable excuse used presently of being pre-booked. Onus on driver to prove he is pre-booked would be useful.

PROVISIONAL PROPOSAL 54 (page 213)

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

RESPONSE

Agree. This is a long overdue change and will negate the need for costly surveys used by licensing authorities to assess unmet demand in order to justify quantity restrictions.

QUESTION 55 (page 213)

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

RESPONSE

May see a short term increase in vehicles but this may be negated by the introduction of national standards.

This we see as an opportunity to universally control numbers through quality at entry as opposed to purely numerical restrictions regardless of numbers.

QUESTION 56 (page 215)

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?

RESPONSE

We agree that quality standards and regulation to maintain such standards is crucial.

It will be important to communicate clearly and effectively with the local hackney carriage and private hire trades regarding potential changes whether this be through central government or local policy. Proprietors invest heavily in their business so in fairness should be provided with facts to enable them to make informed decision regarding the future of their business(es).

QUESTION 57 (page217)

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

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

RESPONSE

- (1) **This proposal would be difficult to enforce. Not all disabilities are visible and are wide ranging and therefore the responsibility on the driver to know who is disabled and who is not, is not a reasonable one.**
- (2) **Agree, in principle. However, in City & County of Swansea we currently licence a mixed fleet of saloons and wheelchair accessible vehicles with numerous vehicle body types. We**

require all 'new' applications for a vehicle licence to be wheelchair accessible from the side only. All wheelchair accessible taxis are required to carry the necessary straps and clamps that are suitable for their particular vehicle. All existing licensed saloons may be replaced with another saloon. This practise works well without any special provision for rank space for wheelchair accessible only vehicles. Experience tells us that many disabled persons do not appreciate being segregated from society and therefore integration is a key factor of this proposal.

QUESTION 58 (page 217)

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

RESPONSE

We do not support this suggestion as our understanding is that the requirement of the licensing regime is that 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 other licensed vehicles.

Another factor to bear in mind is the many and varied forms of disability, meaning that not all disabled passengers want to travel in a wheelchair accessible vehicle as some will find a saloon car more accessible to them.

QUESTION 59 (page 217)

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

RESPONSE

In the City & County of Swansea, our policy states that any new hackney carriage must be black, brand new and wheelchair accessible from the side only.

Historically black saloons were also licensed from new. Those saloons still licensed may replace or renew their saloon with a saloon or a wheelchair accessible vehicle. The variance of vehicles currently licensed in Swansea, provide the travelling public with a choice. Most wheelchair accessible vehicles have been modified to carry up to 8 passengers and therefore those with large families or large groups of friends can also be accommodated.

It may be useful if national mandatory training is made available and offered at a reduced cost to drivers to receive awareness of the many different disabilities and how to provide for the safe assistance to passengers. Criticism is received that due to the many different types of wheelchairs and indeed disabilities, drivers need to keep up to date with new clamps and straps available for use to ensure the safe passage of their customers. Training in turn would provide the confidence and awareness drivers require to carry those passengers with such disabilities.

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. This would be a reasonable approach if relevant national training was more widely available to cover recommended approaches and techniques.

PROVISIONAL PROPOSAL 60 (page 218)

The Commission does not propose to introduce national quotas of wheelchair accessible vehicles.

RESPONSE

Agree.

PROVISIONAL PROPOSAL 61 (page 219)

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

Disability awareness is seen as an important element of any National Standards of both taxi and PHV drivers. Licensing Authorities recognise the need to ensure measures are taken by drivers to prevent discrimination against people with disabilities.

Proposals would need to weigh up the extent and nature of awareness training needed against the additional burdens, financial and otherwise, which would need to be borne by applicants and/or the Authority.

The nature of any proposed awareness training would also need careful consideration to prevent the possibility of delays in the application process caused by applicants waiting for awareness training.

Therefore, careful consideration is needed as to :-

- 1) Who provides the training?
- 2) Where and when can this be made available to applicants?
- 3) Would there be a waiting list or delay to access the course?
- 4) What cost to applicants / the authority?

Any such training must however be provided to the same standard in England and Wales.

PROVISIONAL PROPOSAL 62 (page 219)

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

RESPONSE

Agree. In the City & County of Swansea, all licensed vehicles are provided with free stickers to place in a visible place within the vehicle giving details of the licensing authority contact information. This is not a mandatory requirement however, the majority of drivers are happy to place them within the vehicle and actually point this out to customers who may be unhappy with the service they have received.

At present this is only available in a standard size and is not available in Braille or other print. If this was a mandatory requirement of Local Authorities, the cost of producing such signage may be prohibitive and passed on to the licence holders.

QUESTION 63 (page 220)

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?

RESPONSE

A standard mandatory requirement for roof lights which are connected to the taxi meter to show when the vehicle is available for hire may assist.

It seems a reasonable proposal that drivers be obliged to stop for any passengers when hailed provided they are obviously available for hire. There should be no distinction for disabled passengers as the driver may not be aware that the person hailing them is disabled, and it should be a clearer directive that they stop for any person hailing them provided it is safe to do so.

It would have to be made clear that a taxi should not be permitted to show that he was available for hire unless he is permitted to ply for hire in that district.

There may also be difficulties in proving an offence of failing to stop for a person when hailed due to the safety considerations. It is difficult to ascertain whether, at the time of the alleged hail, was it a safe place to stop?

Better promotion of rank location (presuming there are accessible vehicles on the ranks) and/or publication of contact details for firms which have accessible vehicles may be more useful to the customer who finds it difficult to hail an accessible vehicle.

There could also be a benefit to tying this issue in with proposal 27 in relation to vehicle standards – could mandatory signage in relation to wheelchair accessible vehicles (WAVs) assist – an issue is not only with the vehicle proprietor/drivers, but that persons with disabilities are not always aware that vehicles have – swivel seats, ramps etc. Education of people with disabilities would also assist.

QUESTION 64 (page 222)

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

RESPONSE

Again in an ideal world this would assist Officers when undertaking enforcement and would lessen the burden on other agencies such as the Police.

However whilst the prospect of officers having the power to stop vehicles is superficially attractive, it poses practical problems.

Stop check exercises are an invaluable enforcement tool. At present they are conducted with the police, using police officers to stop vehicles. Results of random stop check of private hire vehicles in some areas find around 40% with safety related faults, quite apart from breaches of licence conditions around the display of signs or badges for instance.

The power to stop a vehicle on the highway has traditionally been reserved for police officers in uniform. It is thought unlikely that licensing officers would or could attempt to stop vehicles in the way in which a police motorcyclist might pull vehicles to the side of the road in moving traffic. There are significant safety risks associated with trying to stop vehicles in moving traffic. Officers would need to be trained, but there would also be problems around identifying the officer. Motorists know that they must stop for a uniformed police officer. How would a taxi driver be able to recognise that the person asking him to stop was a Licensing Enforcement Officer?

We believe that a more useful power would be similar to the power held by Inspectors of Weights and Measures (Trading Standards Officers) under the Road Traffic Act 1988 to direct a vehicle once stopped, to proceed to a weighbridge; it does not enable the officer to stop a vehicle on the highway. Such a power would be useful to enable officers to require a driver to move to a suitable location whilst a check of his vehicle was carried out. It would also be useful to prevent a driver moving off to avoid an Enforcement Officer's approach if the officer could direct him to stay where he was or to move to a particular location.

However, this question ignores the problem of how to deal with unlicensed vehicles and drivers who pose as taxis. We therefore believe that the power of officers to be able to direct vehicles and drivers to remain stationary or to require them to move to a particular location should be applicable to unlicensed vehicles or drivers where the officer has reasonable grounds to suspect that the driver is behaving as if he is a licensed taxi or private hire vehicle. This would enable officers to deal with unlicensed taxis, but it would not go so far as to extending their power to enable them to give directions to any or all motorists or vehicles.

QUESTION 65 (page 223)

<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".</p>
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RESPONSE

Local Authorities are limited given the resources available. In City & County of Swansea, enforcement officers regularly patrol the busy night time economy area of the City Centre.

Currently the main problem experienced in Swansea is one of unlawful plying for hire as opposed to touting specifically as this offence is subject to detailed evidence based on witness account.

If the offence of touting remains one that can only be committed in a public place, there is a risk that touts for particular private hire operators may stand inside a venue near the door and perform the function of plying for hire. This is not unlawful as it stands and is a practise exercised in our City Centre. This causes bad feeling between the hackney carriage and private hire trades competing for the same business.

Therefore we recommend that the practice should be outlawed completely and not confined to a public place only.

QUESTION 66 (page 223)

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

RESPONSE

Agree in principle but there would need to be definitive guidelines in place for officers to follow. There are also obvious concerns regarding costs and practicalities of impounding vehicles. However, if this goes forward, it is suggested that a regional facility for impounding vehicles could exist to dovetail into Police and VOSA officer powers.

The issue of insurance cover is a complicated one if used as the purpose of impounding. The City & County of Swansea is experiencing problems when vehicles used to illegally ply for hire are reported in conjunction with the offence of no insurance. The Magistrates will not accept that there is an offence of 'no insurance' if a licensed PHV driver has been found guilty of illegally plying for hire, if there is valid insurance in place for that vehicle, even though within the terms of the insurance it specifically excludes public hire purposes. The insurance company must if a valid insurance certificate is in place cover that journey for third party purposes, therefore insurance remains in place. There could be serious implications if insurance related reasons for impounding vehicles were used here.

QUESTION 67 (page 225)

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

RESPONSE

Agree, but for prescribed offences only. To issue a fixed penalty notice to a person for not wearing a badge is a prime example of where this type of action would be appropriate especially if the driver is not licensed and known to the officer. One issue for enforcement officers when issuing such notices would be the power to require the correct name and address for the person, again this power would need to be prescribed to licensing officers.

There is general support for developing fixed penalty schemes for licensing authorities to use for breaching taxi and private hire licensing rules. Prosecution is time consuming and costly. We agree that fixed penalties are only appropriate in very clear cut cases, such as not wearing a badge or not displaying the correct licence plates or signs or ranking inappropriately, for instance. They may be used as part of an authority's enforcement tools in circumstances and occasions defined by the authority's enforcement policy.

Consideration could also be given to the use of education as an enforcement tool. Many offences or breaches of conditions occur because drivers have not read or not understood (particularly where English is not a first language) their conditions of licence. We favour having the ability to require drivers to attend training courses (whether delivered in-house by the local authority or externally) as either an alternative or an addition to some other form of penalty, such as a simple caution, for instance, or perhaps a fixed penalty.

PROVISIONAL PROPOSAL 68 (page 225)

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

RESPONSE

Agree that enforcement officers should have the power to enforce against vehicles, drivers and operators licensed in other licensing areas especially if local authority boundaries are removed for the purpose of PHV's.

Cross-border issues are of particular concern to our Local Authority where drivers licensed outside are attracted by the higher number of customers in our vibrant night time economy and to circumvent our licensing standards.

After licensing themselves as hackney carriages, they choose to work as private hire drivers wherever they wish. A consequence of this is that the authority where they work cannot enforce against them for breaching the conditions of the issuing authority's licence or for acts that would have been a breach of its own conditions of licence. They may only take legal action for the commission of a criminal offence.

Cross-border enforcement will be far more feasible with national standards but in the absence of national registers will remain extremely problematic for the reasons mentioned in our response to proposals 41 and 42.

Disagree wholeheartedly with the proposal to enable private hire operators to use drivers and vehicles licensed in another district.

QUESTION 69 (page 226)

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

We consider that cross border enforcement should be restricted to the issue of fixed penalty notices and immediate suspensions in relation to vehicle fitness only, for prescribed offences. i.e. fixed penalty notice on driver for not wearing prescribed badge and immediate suspension notice issued if vehicle deemed unfit for use e.g. doors unable to open from inside of vehicle due to failure.

Revocation should be the responsibility of the home Authority after receiving written submissions from the reporting Authority.

PROVISIONAL PROPOSAL 70 (page 230)

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.

RESPONSE

Agree.

PROVISIONAL PROPOSAL 71 (page 231)

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.

RESPONSE

It does not seem practical (or fair) that a licensing authority should review its own decision unless there has been a material change in circumstances. Effectively this is a second decision by the original authority and delays the applicant's right of appeal to an independent tribunal (the courts).

If the council has made its decision, requiring it to have a second bite at the cherry is likely to be a waste of time and effort. Far better to have the matter go to appeal at the Magistrates Court.

The danger of this proposal is that officer decisions under delegated powers will be overruled by councillors on reconsideration – but they are all acting as the Council, so it is a recipe for confusion and distrust as the perception will be that the council is biased as a result of its previous decision.

The re-hearing option will also have cost implications for the licensing authority. Bearing in mind the perception of unfairness we would question the wisdom of providing for a re-consideration hearing.

PROVISIONAL PROPOSAL 72 (page 232)

Appeals should continue to be heard in the magistrates' court.

RESPONSE

Agree however Taxi cases can currently go directly to the Crown Court.

QUESTION 73 (page 233)

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

RESPONSE

Agree with the onward right of appeal to the Crown Court but do not agree with the proposal to provide a first right appeal of reconsideration by the licensing authority for the reasons provided in proposal response 71.

BIRMINGHAM CITY COUNCIL

RESPONSE TO THE LAW COMMISSION'S PROPOSALS TO REFORM TAXI AND PRIVATE HIRE SERVICES

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)

There are both advantages and disadvantages to a two tier system of licensing vehicles, but on balance, we favour the retention of a two-tier system that maintains the existing distinction between hackney carriages (taxis) that can be pre-booked, or ply for hire or work from ranks, and private hire vehicles which can only accept pre-booked fares.

Creating a single tier, in which everything would effectively be a hackney carriage, would simplify enforcement issues and reduce confusion amongst the general public, but managing the transition would present huge difficulties. Existing hackney carriage drivers would rightly feel disadvantaged, after having invested in purpose built vehicles that would no longer be necessary. There is already a shortage of rank space in Birmingham for the 1400 licensed hackney carriages that we have. The ranks could not possibly accommodate a further 5000+ vehicles if private hire vehicles were all to become hackney carriages.

If all vehicles were classed as hackney carriages it would present significant problems in terms of disabled access as saloon cars are not generally able to take wheelchair passengers.

The overarching reason for our preference for a two-tier system is one of consumer choice. Customers would retain the ability to choose between vehicles that offer different standards and different price structures, but if a two-tier system is retained, the emphasis must then be on making the system better.

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. London should be included within the scope of the reform. If there are to be national standards, they should be just that – national. The Terms of Reference for the Law Commission's project are given as:

“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.”

Allowing London to remain subject to different controls would contradict these terms of reference.

There are greater similarities in the issues experienced in Birmingham and London than many other local authorities. This is owing to the sheer number of vehicles and drivers licensed and the geographical area covered.

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. Imposing such a restriction could potentially generate a loophole in the law which could then be exploited and potentially put passengers at risk. Examples given in the consultation are pedicabs and horse drawn carriages. No credible explanation could be given as to why passengers of this type of transport should be afforded less protection or consideration than a 'normal' licensed vehicle simply because of a lack of engine.

Broadening the definition of which vehicles may or may not be licensed (accompanied by clear guidance to Licensing Authorities) would further address potential public safety issues.

Question 4

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

No. ***Please see response to provisional proposal 3 above***

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)

There must be a clear and unequivocal differentiation between those vehicles covered by the different licensing regimes, but to attempt to combine the two would be a hugely complicated matter. However, there are some anomalies within the public service vehicle regime such as the fact their drivers are not required to be CRB checked which could be considered separately as improvements to the system.

Provisional proposal 6

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

The definitions of what constitutes a hackney carriage / private hire vehicle must be sufficiently clear as to address all reasonable foreseeable circumstances. It is hoped this issue will be addressed by such a definition.

There must be no overlap permitted between the two regimes permitted, as to do so would cause confusion and uncertainty, which is precisely what the reform of the legislation is supposed to be addressing.

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 Secretary of State should issue statutory guidance. Statutory guidance would assist authorities to make consistent decisions thereby enabling a level playing field and proper competition between service providers.

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 potential for such an exclusion to be abused unless the definitions and guidance are suitably clear. It must be absolutely clear as to what would be expected to demonstrate an activity was 'in the course of a business'. Would the definition apply to the person carrying out the activity or the person carrying on the business i.e. would it be the operator or the driver committing any offences? However, it would be possible to draw on definitions contained in Trade Descriptions Act 1968 (now repealed) case law that defined what was or was not 'in the course of a trade or 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)

The regulation of Carpooling services should not be within the Hackney Carriage /Private Hire remit as there is no business element associated. Once again, there would be a need for clear guidance with regard to the issue of members clubs as there is potential for any exemptions given to be abused. Also, the examples given within the consultation such as women-only firms etc appear to be contradictory to equalities legislation.

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)

Such flexibility may be advantageous in some circumstances, but would run the risk of negating the work being done through this review to obtain a level of consistency.

Should some future development in the transport arena occur, it would, of course, be advantageous for the Secretary of State to be able to make exclusions, but it is hoped that this review of the existing legislation will produce a suitably comprehensive reform to take existing considerations into account without the need for exemptions.

Provisional proposal 11

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

Although an argument can be made to say that the users of such vehicles should be afforded the same level of protection as passengers of more conventional taxis, we considered that, on balance, a clear need to licence such vehicles has not been made out. In Birmingham we do not have any problems with wedding or funeral hire cars and therefore see no particular need to change anything. It would appear to be regulation for the sake of regulation.

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 issues regarding contract exemption were argued and addressed in detail only relatively recently. There is no merit in reintroducing such an exemption.

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.

One of the fundamental principles which must be addressed by this review is the concept of the street/private land. A completely fresh approach to the way in which customers use these vehicles must be adopted rather than relying on numerous, sometimes contradictory case law reports and antiquated legal definitions.

Unless these issues can be addressed, the review cannot possibly succeed in its aims. This is perhaps one of the most important areas where there is a very real need to address issues caused by restrictions on powers and jurisdiction of officers.

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 could be argued that the regulation of taxi and private hire provision at airports and railway stations should be no different to that at any other location.

Admittedly there are some airports and railway stations, including Birmingham Airport, where contracts exist between service providers and the airport / station enabling a greater degree of control over some aspects such as cleanliness of vehicles / driver attire etc which would potentially be lost. There could also be a potential loss of customer service if there is no longer any obligation (contractual or otherwise) for drivers to work those locations.

Losing their current status could lead to a significant drop in the standards required for vehicles and drivers which are currently in excess of those required by the licensing authority.

If airports/stations do restrict the access to certain companies / groups of service providers, it is important to acknowledge that not all customers will wish to use that provider and should be able to exercise their choice

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. Putting the definitions brought in by case law on a statutory footing would be beneficial in terms of enforcement and enabling a consistent approach.

Provisional proposal 16

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

Agreed.

There is a definite difference between flagging down in the street and clicking on an app on your smart phone

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)

Provided provisional proposal 15 were implemented and suitable definitions given in law, there would be little or no benefit to changing the definition.

Provisional proposal 18

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

The concept of compellability is a very important one and must be retained.

If drivers were permitted in law to refuse fares, passengers wishing to travel very short distances for whatever reason could be severely disadvantaged. This is of particular concern when considering disabled passengers who may only wish to be taken a short distance, for example, from New Street Station to the Mailbox or similar. If it were made permissible for drivers to 'cherry-pick' jobs and refuse the low fares this could lead to significant malcontent, not just with the passengers but with other drivers.

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.

Again the caveat which must be attached to this response is the need for the legislation or statutory guidance to be explicitly clear in terms of what does and doesn't constitute pre-booking.

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 subverts the principle of 'once a taxi-always a taxi'. This rule has long been argued against by drivers and vehicle proprietors alike but still remains a sound concept.

There are issues concerning who drives the vehicle, how it could be proved the vehicle was not being driven for professional purposes and serious concerns as to the additional burden this would place on enforcement officers to investigate further potential loopholes which may be exploited when investigating offences.

What would be the position where a licensed vehicle was being driven by an unlicensed driver? Would officers still be entitled to conduct an inspection of the vehicle and suspend the licence if it was unroadworthy or would that only be possible when it was being used for professional purposes?

If family members are allowed to drive vehicles their insurance policies would have to be adequate to cover this type of use.

Our main concern is that allowing other people to drive a licensed vehicle can open the door to abuse by unscrupulous drivers and this poses a reputational risk to the licensing authority that has put its name to the licence.

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. Without clear guidance on the licensing requirements, we will simply return to disjointed and inconsistent approach we have now. Making the guidance statutory prevents authorities from choosing to disregard the direction given.

Provisional proposal 22

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

Whilst it is agreed the public at large do not appear to be familiar with the differing concepts of a hackney carriage or private hire, the terminology used within the legislation is only really significant to those administering / enforcing or governed by the said legislation. On balance we agree that references to hackney carriages are antiquated and that our preferred descriptions would be ‘taxis’ for hackney carriages and ‘private hire vehicles’ for everything else.

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. Whichever definitions are decided upon must only be used exclusively for those vehicles. No blurring of the lines can be permitted, be it in advertising, names of apps, websites etc. This will only lead to confusion and potential misleading of the public.

Chapter 15 – a reformed regulatory framework

Provisional proposal 24

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

We agree that national safety standard could be beneficial for passengers, regulating authorities and the trade, however it needs to be clearly and unambiguously defined and should set a high standard, rather than reducing standards across the board to a lowest common denominator. National minimum standards become even more essential if vehicles are permitted to work in locations other than where they were licensed.

Provisional proposal 25

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

This idea whilst superficially attractive is seriously undermined by the proposal to allow operators to use driver/vehicle combinations from any area. Many drivers would not licence their vehicles in their home authority area if that required them to meet a more stringent standard than a neighbouring authority. If operators were free to use vehicles from any licensing authority, a higher local standard such as compulsory CCTV could be quickly circumvented by using vehicles licensed elsewhere. In short this could create just the sort of problem we have seen with hackney carriages post Stockton, but on a massively increased scale.

It would be a useful tool for a Licensing Authority to have the ability to impose a higher standard where local circumstances made it necessary, but unless that authority retained control over the drivers and vehicles licensed to work in their area, not merely an entitlement to take enforcement action against vehicles licensed elsewhere, all that might be achieved is a mass exodus to less demanding licensing authorities. The ability of a local authority to set its own standards must be carefully balanced with the proposal to allow vehicles to work in any part of the country, regardless of where they are licensed.

Provisional proposal 26

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

Yes, a national standard which was not mandatory would be of limited value and could create a market where drivers chose to license their vehicles with the least demanding, or most accommodating authority in their locality. Standards should be set high; this requirement is for the benefit and safety of the paying public and should be clear, unambiguous and enforceable.

We would hope and expect that consultation took place if such a standard were to be introduced. The standard would need to be written in a way that could accommodate the introduction of new vehicles to the market place to avoid new standards having to be produced constantly.

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)

No, some other factors should be taken into account and set as standards. Admittedly, in a world where a private hire licence is good anywhere in England and Wales, a topographical knowledge test makes little sense. However a driver should still be required to meet certain minimum requirements, not limited to passing a CRB check. For example a requirement to speak and understand English. A passenger should reasonably expect the driver undertaking a booking to be able to communicate and even when English is not the passenger's first language there is a good chance it will be a second language.

Additionally with an increasing number of drivers coming into the trade from Africa, Eastern Europe, The Middle East and Iran, rather than the more traditional countries of the Indian Sub-Continent, it is not unusual for a driver seeking assistance or guidance from a radio operator to find they do not have a language in common unless they both speak reasonable English.

Ideally, private hire drivers should be required to take an educational qualification that reflects their role and duties.

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)

How would this be achieved? If standards are imposed by a local licensing authority and that vehicle then goes to work for an operator in another authority area, do the standards imposed by the host authority outweigh those imposed by the original licensing authority? If not what purpose do they serve? If they do, then how are the new standards imposed and enforced?

In Birmingham we would want to retain the right to set our own vehicle signage standards because it enables customers to see that we have licensed the vehicle, not another authority. We believe that retaining this ability is in line with principles of localism.

Advertising on vehicles is another area where there is much variation between authorities and if it were allowed nationally some local control of position, style and content may be desirable. However, if there is a free for all with drivers/vehicles able to work for an operator outside of their licensed area, how could a local licensing authority maintain control? Once again, if another authority was seen to offer a more advantageous position on advertising, what would stop a mass exodus to take advantage of the situation?

Question 29

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

Who will conduct the testing? How will testing stations be monitored and standards checked? How frequent will testing be? Will local authorities be able to introduce more stringent testing? If they do, what stops a driver licensing his vehicle in an area where less stringent testing is the norm? How does a large metropolitan authority pay for licensing and enforcement activities if it is overwhelmed by vehicles licensed elsewhere and from which it garners no income in the form of licence fees?

Locally one size does not always fit all. For example, in areas where taxi licences have traditionally only been issued for purpose built vehicles, the provision of transport for people with disabilities may well rely heavily on those vehicles, especially for wheelchair access. In other local authority areas where saloon cars have been eligible for taxi licenses the position is less clear cut. How do you reconcile those regimes under a single standard without disadvantaging drivers, or vulnerable passengers?

Question 30

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

In a two tier system, where taxis pick up from the street with no booking, or journey records, it is arguable that the driver is more vulnerable and a reasonable case can be made for more stringent standards to protect the driver. Many local authorities requiring purpose built cabs for the taxi role recognise the value of the safety screens fitted and as is the case in Birmingham, only allow passengers in the rear of the vehicle behind the safety screen. However this is really only a viable option with purpose built taxi vehicles. A significant contribution to driver (and passenger) safety might be the introduction of a mandatory requirement to install CCTV recording equipment, subject to the guidance of the Information Commissioner.

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, if there is to be unrestricted use of vehicles across any authority in England and Wales, then all conditions should be set nationally. Otherwise those trying to set higher standards will see drivers taking their vehicles to authorities setting lower standards, their income from licence fees will drop and the temptation will be to lower standards in order to compete, resulting in a downward spiral of standards to the detriment of the travelling public.

The wider standard should also include the age of vehicles and more importantly acceptable configurations, vehicles should be built to European M1 (passenger carrying vehicle) standards and not be converted N1 (goods vehicles) types. Consideration should also be given to adopting nationwide minimum emissions standards. At a time when air quality is such an issue in inner cities, a higher standard should be set, not a lowest common denominator.

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)

Whilst consultation would be desirable, those setting standards should not be unduly influenced by lobbying from trade organisations and larger operators and should put passenger safety ahead of other considerations.

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 suitably qualified technical panel would be a good idea, especially if it was mandated to set a standard in the interests of public safety rather than subject to pressure from trade representatives or operators to lower standards.

Provisional proposal 34

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

If a system similar to the existing regime were introduced, this would be preferable, especially if this allowed areas traditionally requiring purpose built cabs to continue that policy after the introduction of new legislation. However in a national scheme, differences in standards would be undesirable.

Question 35

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

If local licensing authorities retain the right to set standards, then their power to do so should only be limited by a test of reasonableness.

Question 36

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

Again, what value does this have if a driver or operator can work anywhere and be licensed in any district? If you attempt to impose a condition which may be perfectly legitimate, but is seen as onerous by the licensee, what stops him/her from going to a neighbouring authority and licensing there instead, then working in your area without the unwanted condition and without making any financial contribution to your budget? However if local control is retained, then the power to impose individual conditions should also be retained.

We are strongly opposed to drivers being able to work anywhere because it would completely undermine our ability to set local conditions. The same principle applies in respect of operators.

Control over operators is already minimal. More control is required, not less. We often here of alleged links between operators and organised crime, although these allegations are invariably unsupported by evidence. Existing rules place very few responsibilities on operators. They can not be held responsible for the behaviour of their drivers, which we see as a weakness in the system. Operators are best placed to seek improvements in their drivers' behaviour.

Before an operator is able to hire new drivers the operator should be required to demonstrate that it has sufficient work to keep the driver employed in order to avoid the situation where operators encourage new drivers to hire radios without there being sufficient demand for them.

We also believe that the opportunity should be taken to explore how operators can be made vicariously responsible for touting, given that it is the operator who stands to gain from the activities of touts.

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)

One size will not fit all and it should be left to local licensing authorities to make arrangement as suits local conditions, with clear guidance as to what minimums are expected and the extent to which powers and duties can be shared.

Provisional proposal 38

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

A sensible option, but again we have seen examples of drivers travelling miles from their home area to obtain a hackney carriage licence on more favourable terms. Grouping a number of local authorities together to set standards might limit the local options to avoid unwanted regulations, but will not prevent a driver travelling further afield to do the same. In such circumstances the advantages of setting standards in a wider area, are only marginally more beneficial than doing so in a single controlled district.

Provisional proposal 39

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

Birmingham does not use zones and it is likely that taxi drivers would consider any attempt to introduce them as an unnecessary restriction on their right to work across the city. Clearly in other areas the trade wish to keep existing zones, accordingly leaving it to individual licensing authorities seems sensible.

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)

Another superficially attractive idea, but in practice who would police the scheme and prevent drivers working outside their legitimate licensed hours? With limited resources available for enforcement, it is likely that such licences would be widely abused. In any case if drivers licensed by other authorities have unrestricted right to work in any licensing area, putting restrictions on your own vehicles to control numbers and ensure demand is met at peak times is pointless, when other drivers/vehicles from elsewhere can enter your district at will. We are not in favour of this proposal.

Drivers can work whichever hours they choose, and therefore supply and demand will ensure that there are always sufficient drivers to service times of peak demand.

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 not prevented from accepting bookings outside their licensed area, or to soliciting bookings (via distributing cards, or advertising) now. They are prevented from using drivers/vehicles licensed in other authority areas though and this should not be changed. Operators make their profit from the hire of radio and, or data-unit equipment to their drivers on a weekly basis and with rentals now well in excess of £100 per week an operator with 500+ drivers on his books stands to make a lot of money.

There are good and conscientious operators, but there are also many less scrupulous operators who will recruit drivers, including hackney drivers licensed elsewhere, well beyond their ability to provide work. This results in under-employed drivers increasingly resorting to illegal plying for hire and locally licensed drivers complaining bitterly to the licensing authority about the use of 'out of towners' when there is insufficient work to go round already.

The effect of 'Stockton' has been overwhelmingly negative for all except the operators, many of whom welcome the opportunity to recruit more drivers with little or no regard to the effect on their existing drivers and their ability to provide them with legitimate work. As identified in the consultation document, London is likely to attract many drivers from surrounding areas, but this is also true of Birmingham, and presumably Leeds, Manchester, Liverpool, Bristol, etc. A free for all will put money in the pockets of the big operators, but will probably also bring misery to locally licensed drivers already struggling to make a living whilst denuding other areas of drivers when they head in to the big cities at times of peak demand. The effect of which may be to put some of the smaller operators in rural areas out of business altogether. The difficulty of dealing with the influx will fall on the local licensing authority and looks likely to be problematic. It is hard to see how this is an advantage to anyone, other than the big operators who will profit.

Provisional proposal 42

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

There is no “return to area” requirement in the existing legislation, although some local licensing authorities make it a condition. However in busy metropolitan areas plying for hire by private hire drivers licensed elsewhere is already a serious problem causing difficulties for the legitimate taxi trade and public alike. The tone of the Consultation Document seems to imply that plying for hire is not really a problem if a common safety standard is adopted nationally, as quoted below.

“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.”

Drivers illegally picking up passengers who are often drunk, vulnerable and totally oblivious as to the identity of vehicle they are getting into do represent a risk to the public. Where no record of the booking exists, drivers are far more likely to behave improperly and in the event that the journey results in a complaint, or worse, a criminal investigation, the driver is infinitely more difficult to trace. Additionally when most private hire insurance policies require the driver to hold an appropriate licence and to operate within the conditions laid down by their licensing authority, picking up illegally in another area invalidates that insurance, causing them to commit a strict liability offence carrying a minimum penalty of six points. Any suggestion that illegal plying for hire is not serious will quickly see it become the norm and create a single tier licensing system by default.

Such an arrangement might suit the larger operators, as they could recruit more drivers and when they had insufficient work, instruct them to go looking for jobs on their own, if those jobs could be legitimately called through to the base and logged, you would have effectively made it legal for private hire drivers to ply for hire anywhere in England and Wales.

If the intention is to allow indiscriminate plying for hire, then the best solution would be the introduction a properly defined and controlled single tier licensing system.

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 would maintain the status quo and would not in itself cause major problems, although we would also support the ability of the licensing authority to set private hire fares.

Local experience in Birmingham suggests some private hire drivers would welcome intervention in the setting of private hire fares, or the setting of radio rental rates. This is mainly because of the high radio rents charged by operators, who simultaneously keep the fares the drivers can charge low, in the interests of competitiveness. With drivers tied to an operator and dependent on them to be able to work, the effect of low fares and increased radio rental coupled with increases in insurance and fuel costs has been described by one local observer as tantamount to serfdom.

When even some experienced drivers are paying insurance premiums of £3,000 or more per annum, a tank of fuel costs £70 or more and radio rental for a full time driver can be close to £130 per week, some drivers have to earn in excess of £250 in a week before they start to make anything for themselves. It is therefore not surprising that so many are dependent on in-work benefits.

Question 44

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

No, a hackney driver working for a private hire operator should charge the operator rate, or the meter rate, whichever is the lower fare. Meters should be run for all journeys. However as has been demonstrated by the increasing use of hackney carriages licensed elsewhere in the wake of 'Stockton', the plethora of different vehicle types and meter rates just causes confusion for passengers. A passenger calling a private hire company should expect to be charged in line with the published fare table for that company regardless of the type of vehicle dispatched.

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)

The issue of a driver being required to be a “fit and proper person”, should be included within primary legislation but with a clause allowing the standard(s) of the “fitness” test to be set by the Secretary of State & Welsh Ministers.

This may allow the standards to be more regularly reviewed and any necessary amendments to be addressed and brought into effect more efficiently than having to review/repeal the statute.

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)

Every applicant for a licence should be subject to a “fitness” test. They are potentially going to be issued with a licence for carrying out a function within the provision of the private hire/taxi service to the public. Their activities, regardless of how “remote”, have the potential (in varying degrees) to impact on public safety and the public’s perception of the trade. To maintain standards, to ensure sufficient levels of competency/compliance and to protect the public from unsuitable licensees, it is essential to have a “fitness” test.

Up until recent times (prior to the explosion in numbers of claims management & hire companies), in almost all of the cases, the vehicle proprietor was also the vehicle driver. However, we now have a considerable number of vehicle proprietors, who effectively “let/lease/rent/hire” out their vehicles as part of their “business” activities. The licence, along with its conditions, is issued to them and not the subsequent drivers of their vehicles. Thus they have the primary role and responsibility for ensuring the vehicle meets both the mechanical/legal requirements to be on the road but also the compliance with the specifications imposed by the conditions.

If we do not include a test for the proprietors “fitness”, how can we assess their suitability for ensuring compliance with these requirements, which may impact on public safety and that of the drivers?

Moreover, if there is no such test, how do we take action against them should they be considered not “fit” to be conducting this sort of business with our licensed vehicles? For example, a proprietor who hires out vehicles as part of their claims management service is found to be conducting fraudulent claims. Their conviction(s) for “dishonesty/non-compliances”, could not be considered a relevant factor to issuing them with more licences if there was not a “fitness” test”?

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)

As per answer to 45 above.

Provisional proposal 48

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

Yes, the licensing of operators and the legal implications this brings is essential in ensuring/promoting public safety and confidence.

In particular and not exclusively, licensed operators are/have:

- 1) The point of contact and the “service” provider for the public.
- 2) A vested interest in respect of ensuring drivers/vehicles are of a suitable standard, as their poor performance impacts on the operator’s business/investment.
- 3) A requirement to maintain records for drivers/vehicles and bookings, which provides accountability, reduces opportunities to be non-compliant and assists enforcement action in respect of drivers/vehicles.

Question 49

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

Yes, an operator’s licence should be required by anyone “operating” licensed (PH/HC) drivers/vehicles. This would then require them to comply with the statutory provisions and conditions of licence etc (see 48 above).

Such businesses should be licensed, if nothing more than to remove the anomaly with private hire operations and create a more level trading field. Moreover, once licensed, they could run a fleet of Private Hire and/or Hackney Carriage drivers/vehicles. This would then remove the anomaly, which applies to a private hire operator who runs a fleet of Private Hire and Hackney Carriage vehicles (including ones from other authorities) but is legally only required to maintain and produce records pertaining to bookings undertaken by their Private Hire drivers/vehicles.

Provisional proposal 50

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

No, where the intermediaries are merely contacting a licensed operator and in effect acting only as the “agent” of the customer, then this is not an activity worthy of regulation.

A statutory provision (similar to the current S.73 of the LG (MP) Act '76) requiring intermediaries to disclose details of the operators (or drivers/vehicles), to whom they pass their bookings should be included to assist enforcement action, investigations into complaints and/or the activities of the intermediaries.

Question 51

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

Yes. In light of the comments made in 48 above and the statutory requirements placed upon them as a PHO (and additional legislation pertaining to the “owner/director” of a “business”), the “fitness” test of an operator is essential. In short, they are required to act lawfully and maintain and produce legal records, thus they should be individuals who can be “trusted” to undertake this responsibility.

Their ability and/or suitability to run an operators business and to ensure compliance with the legislation/conditions of licence cannot be assessed without a “fitness” test.

If they are of poor character, breach conditions, commit offences and/or fail to evidence ownership or control over the business, then these should be matters the licensing authority can consider prior to issuing a licence?

Provisional proposal 52

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

Yes and to any operator but they must retain records of the sub-contracted booking, so the company that did provide the service can be identified.

Customers phone a private hire firm and unless otherwise told, will expect a car from them to attend. They may not notice that a vehicle operated by another firm undertook the booking. If there are problems with the service provided, then those responsible need to be identifiable.

Question 53

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

Yes. Taxi drivers undertaking pre-booked jobs should be required to be able to demonstrate this activity and maintain records of those bookings, which can be inspected by any authorised officer. This will provide assistance to licensing officers dealing with taxi’s licensed by other authorities, working in their area.

Chapter 17 – reforming quantity controls

Provisional proposal 54

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

We do not agree with the proposal to remove the power of a local authority to restrict taxi numbers.

Question 55

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

There are two principal problems associated with removing quantity restrictions. The first is that of congestion on the highway. Even in Birmingham, where there is a moratorium on issuing new hackney carriage licences, there are significant congestion problems. Although Birmingham has a large population of circa one million people, many taxi drivers seek to earn their living from the city centre rather than in the suburbs. The city centre struggles to cope with the numbers of drivers and vehicles. There are insufficient rank spaces for all the drivers who want to work there. The number of rank spaces is limited by the physical environment and the need to balance ranks with the need to maintain traffic flows for all other vehicles using the city.

Birmingham New Street Station is a major attraction for taxi drivers. The station has space for about 33 taxis, but the queue of hackney carriages into the station stretches for hundreds of yards along the main highway, often on yellow lines. Likewise, many taxi drivers choose to work at night to serve the entertainment areas of the city, but rank spaces cannot possibly accommodate the number of vehicles that wish to work. This results in huge queues of vehicles and congestion for other road users.

To remove the quantity restriction would result in even more vehicles chasing too few customers. Whilst the law of supply and demand should dictate that drivers would not enter the market if it is not profitable, our experience is that this is not the case. Drivers sometimes feel that they have a right to queue for customers, irrespective of whether they are on an official rank, and this creates enormous problems for enforcement, trying to balance the needs of drivers to earn a living, the demand from customers and the need to reduce congestion for other road users.

The second major problem linked to removing our ability to limit numbers is the question of vehicle standards and maintenance. Standards of maintenance of hackney carriage vehicles are higher than for private hire vehicles in Birmingham, but we still find that around 10% of hackney carriages are liable to have serious safety faults when randomly checked. Part of this problem can be attributed to the general economic recession as fewer people use taxis. Fewer customers results in reduced income for drivers, which is likely to result in drivers not being able to afford to maintain their vehicles to the proper standard. Licensing more hackney carriages would only add to the problem as competition between drivers for the remaining customers increased.

We also find that an over supply of vehicles (whether private hire or hackney carriage), results in a tendency for drivers to behave illegally as they take greater risks to secure customers over other drivers. This is particularly true in respect of illegal plying for hire.

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)

Although we disagree with the removal of quantity restrictions, we agree that it would make sense to remove the restrictions gradually if it became a requirement.

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)*

In Birmingham all hackney carriages are required to be wheelchair accessible by virtue of the fact that they must be of a traditional black cab design. This would not be possible if we licensed conventional saloon cars as hackney carriages. Therefore it is difficult for us to comment on this question, but in principle, we would agree that a separate licence for wheelchair accessible vehicles is an option. Making certain ranks only available to adapted vehicles would definitely be an incentive for some drivers to acquire the necessary type of vehicle.

Question 58

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

In a situation where not every vehicle is required to meet accessibility standards there would need to be a way of encouraging some drivers to use suitable vehicles. Offering discounted licence fees would be an appropriate method to use.

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)*

One option is to require all hackney carriages to be of a traditional London taxi design, which are wheelchair accessible.

Another option is to restrict the most lucrative hackney carriage ranks to vehicles that are wheelchair accessible.

Provisional proposal 60

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

We recognise that setting quotas would be extremely difficult and would be likely to result in unfairness between drivers, some of whom would be required to spend more on their vehicle than others who happened not to have been caught by the quota.

Provisional proposal 61

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

We support the proposal that all drivers should be trained in disability awareness. In Birmingham in February 2009 a 14 year old wheelchair passenger in a hackney carriage died after the vehicle she was in braked suddenly. The wheelchair had not been secured by the driver and the passenger died 2 days later from a spinal injury. At the inquest, the coroner reached a verdict of accidental death, but said that the accident was preventable and recommended that all Birmingham hackney carriage drivers should undergo disability awareness training. At that point in time only new applicants were required by Birmingham's policy to be trained. Following the verdict, we implemented a programme under which all drivers had to be trained.

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 support this proposal. It would be beneficial for all taxi passengers, not only people with disabilities. Our own survey data demonstrates that too few people understand how taxis are licensed or who the licensing authority is and therefore they do not make complaints.

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)

Our Enforcement Officers often see complaints alleging that disabled passengers are refused by taxis because drivers do not want the extra responsibility and effort of taking them. Whilst every complaint is examined, the difficulty in bringing action invariably relates to the level of evidence that is available. Usually the only evidence is the word of the passenger against the driver, and for a criminal offence, without other supportive or circumstantial evidence, there are insufficient grounds to prove the offence beyond all reasonable doubt.

Perhaps one option might be to consider making the 'offence' civil instead of criminal and to reduce the burden of proof in such cases to that of the balance of probabilities. Lessons could be learned from the way in which Enforcement Orders are used in the Enterprise Act 2002 by Trading Standards Officers. An Enforcement Order is granted by a court in a similar way to an injunction, but it prohibits the recipient from repeating the actions that led to the Order (such as refusing a disabled passenger). A breach of the order results in contempt of court and is linked to a custodial sentence. The whole process is operated on the civil burden of proof.

Chapter 19 – reforming enforcement

Question 64

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

Whilst the prospect of officers having the power to stop vehicles is superficially attractive, it poses practical problems.

Stop check exercises are an invaluable enforcement tool. At present they are conducted with the police, using police officers to stop vehicles. Our own experience in Birmingham demonstrates that in a random stop check of private hire vehicles we are likely to find around 40% with safety related faults, quite apart from breaches of licence conditions around the display of signs or badges for instance.

The power to stop a vehicle on the highway has traditionally been reserved for police officers in uniform. It is thought unlikely that licensing officers would or could attempt to stop vehicles in the way in which a police motorcyclist might pull vehicles to the side of the road in moving traffic. There are significant safety risks associated with trying to stop vehicles in moving traffic. Officers would need to be trained, but there would also be problems around identifying the officer. Motorists know that they must stop for a uniformed police officer. How would a taxi driver be able to recognise that the person asking him to stop was a Licensing Enforcement Officer?

We believe that a more useful power would be similar to the power held by Inspectors of Weights and Measures (Trading Standards Officers) under the Road Traffic Act 1988 to direct a vehicle once stopped, to proceed to a weighbridge; it does not enable the officer to stop a vehicle on the highway. Such a power would be useful to enable officers to require a driver to move to a suitable location whilst a check of his vehicle was carried out. It would also be useful to prevent a driver moving off to avoid an Enforcement Officer's approach if the officer could direct him to stay where he was or to move to a particular location.

However, this question ignores the problem of how to deal with unlicensed vehicles and drivers who pose as taxis. We therefore believe that the power of officers to be able to direct vehicles and drivers to remain stationary or to require them to move to a particular location should be applicable to unlicensed vehicles or drivers where the officer has reasonable grounds to suspect that the driver is behaving as if he is a licensed taxi or private hire vehicle. This would enable officers to deal with unlicensed taxis, but it would not go so far as to extending their power to enable them to give directions to any or all motorists or 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)

Our experience in Birmingham is that touting is conducted by agents working for private hire operators. It is unusual to see it happening in respect of hackney carriages. Commonly, touting occurs because a contract exists between an operator and an entertainment venue such as a pub or club. The operator pays the venue to promote his private hire firm exclusively and to direct customers to the firm that need taxis. Whilst we cannot argue against such commercial agreements, problems arise because operators take their commercial rights too far and install their agents to stand outside venues and put customers into their company's vehicles. Journeys taken in these circumstances are likely to be illegal under existing law because there has not been a pre-arranged booking.

We also hear of complaints from hackney carriage drivers and private hire drivers whose operators are not contracted to the particular venue that touts will physically prevent hackney carriages from ranking or drivers from other private hire operators from picking up passengers. We have concerns that this type of illegal behaviour can escalate into violence between drivers and touts.

Therefore, one approach to this problem is to place the responsibility for the offence of touting onto the private hire operator whose business is being promoted by the touts. Operators are less ephemeral than the people who they employ to stand outside venues and they have more to lose in terms of their licences, as against touts who will not have a licence and who are probably paid on a casual basis.

If such a scheme were implemented, a similar approach could be taken in respect of any hackney carriage radio systems that might act in the same way.

If the offence remains one that can only be committed in a public place, there is a risk that touts might stand inside a venue near the door and perform the same function. Therefore we recommend that the practice should be outlawed completely.

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.

We have concerns about the nature of contracts between operators and venue owners. Although contracts do not fall within the area of responsibility of licensing, we hear stories of considerable sums of money exchanging hands for operators to acquire 'exclusive rights' to work venues. The financial gain to be made by venues and the need for operators to ensure they recover their investment are both factors that lead to operators acting illegally. This type of monopoly arrangement is also unhealthy for competition between operators and choice for consumers.

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 are strongly in favour of this proposal. An unlicensed driver using an unlicensed vehicle to ply for hire risks prosecution for driving without insurance and for not being licensed, but they do not risk losing their private hire licence because they do not have one and are therefore not risking their livelihood. In many ways they have less to lose than a licensed driver who operates outside the conditions of his licence. The risk of losing their vehicle completely would be a more significant deterrent.

Concerns raised in the consultation document about the practicality surrounding the procedure for seizing a vehicle are not regarded as being significant. Whilst it would be desirable for a licensing enforcement officer to impound a vehicle on the spot for the commission of an offence, such a seizure can always take place after the commission in a similar way to that in which other enforcement agencies work. Trading Standards Officers, for instance, have the power to seize and detain goods, including vehicles. Where an officer does not have the power to require a driver to vacate a vehicle, it is possible to seize it after the event by way of powers of entry granted under a magistrate's warrant, for instance, should specific statutory enforcement powers not be drafted into legislation.

If vehicles were seized in any significant number, the question of their storage would become an issue and therefore consideration should be given to enabling Licensing Authorities to charge drivers for storage.

Question 67

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

We are in favour of developing fixed penalty schemes for licensing authorities to use for breaching taxi and private hire licensing rules. Prosecution is time consuming and costly. We agree that fixed penalties are only appropriate in very clear cut cases, such as not wearing a badge or not displaying the correct licence plates or signs or ranking inappropriately, for instance. They may be used as part of an authority's arsenal of enforcement tools in circumstances and occasions defined by the authority's enforcement policy.

We also think that consideration should be given to the use of education as an enforcement tool. Many offences or breaches of conditions occur because drivers have not read or not understood (particularly where English is not a first language) their conditions of licence. We favour having the ability to require drivers to attend training courses (whether delivered in-house by the local authority or externally) as either an alternative or an addition to some other form of penalty, such as a simple caution, for instance, or perhaps a fixed penalty.

Provisional proposal 68

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

We agree that enforcement officers should have the power to enforce against vehicles, drivers and operators licensed in other licensing areas. Cross-border issues are of particular concern to us in Birmingham where hundreds of drivers have obtained hackney carriage licences from other authorities (but mainly from Shropshire) in order to circumvent our tighter licensing standards. After licensing themselves as hackney carriages, they choose to work as private hire drivers in Birmingham. A consequence of this is that we cannot enforce against them for breaching the conditions of the issuing authority's licence or for acts that would have been a breach of our own conditions of licence. We may only take legal action for the commission of a criminal offence.

Cross-border enforcement would be far more feasible if there were common licence conditions across the country.

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)

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 Birmingham), 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 Birmingham, 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.

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)*

This seems a wholly reasonable suggestion.

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 should be workable with decisions made by an officer, or in respect of specific delegated authority referred to a Sub-Committee, but how would Sub-Committee decisions be appealed? Would they need to go to another Sub-Committee for review, or to full Committee?

Provisional proposal 72

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

Yes, this seems to work reasonably well in most circumstances. However consideration should be given to requiring that all fees and submissions necessary for the lodging of an appeal should be submitted ahead of the 21 day appeal deadline. At present an appeal can be lodged without payment of fees, even though no hearing will be scheduled until they are paid in full. This has led to several local instances where a driver has continued to work on appeal for extended periods because the local Magistrates Court had received no fees, so would not schedule a hearing, but at the same time insisted that a valid appeal had been lodged making the driver eligible to continue working. In some cases this went on for months.

Where a driver fails to pay cost orders connected to a court hearing we consider that this should be grounds for concluding that the driver is not a fit and proper person to hold a licence, rather than it simply being dealt with as a civil debt, as at present.

Question 73

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

There should be some requirement to demonstrate that a further appeal is reasonably justified. At present, with no further cost (beyond fees to legal advisors) for lodging an appeal to Crown Court, such appeals are often lodged in order to qualify for additional extensions to revoked, or suspended licenses, with the appeal then being dropped as soon as it is listed to avoid further legal costs. In other cases licensees represent themselves and lodge an appeal simply because it costs them nothing extra to do so. Thus considerable amounts of time and money are spent by local licensing authorities in engaging counsel and preparation for appeals with little hope of recovering those costs when no hearing results.

BIRMINGHAM CITY COUNCIL

**REPORT OF THE DIRECTOR OF REGULATORY SERVICES
TO THE LICENSING COMMITTEE**

16 SEPTEMBER 2009
ALL WARDS



DISABILITY AWARENESS TRAINING FOR HACKNEY CARRIAGE DRIVERS

1. Summary

- 1.1 Following the tragic death of a 14 year old schoolgirl, who was a passenger in a Birmingham licensed hackney carriage, an inquisition took place on 7 July 2009 before H M Coroner, Mr A K Cotter at Birmingham Coroner's Court.
- 1.2 After hearing the evidence the Coroner has strongly recommended that all licensed hackney carriage drivers should undergo Disability Awareness Training.

2. Recommendations

- 2.1 That all licensed hackney carriage drivers undergo formal training under the Disability Discrimination Act. It is recommended that drivers attend the Disability Awareness Training seminar at Birmingham Disability Resource Centre or gain the knowledge as part of the NVQ Level 2 Qualification in Road Passenger Transport.
- 2.2 That all hackney carriage drivers are personally written to informing them of this decision, indicating that they must complete the disability awareness training as part of the renewal process of their hackney carriage drivers licence.

Contact Officer: Pete Barrow, Head of Licensing
Telephone: 
Email: 

3. Background

- 3.1 On 24 February 2009 a 14 year old passenger, [REDACTED] was travelling in a Birmingham licensed hackney carriage accompanied by her father and sister. Ramzan was 14 years old and had a disease which made her spine very unstable. She had been a wheelchair user for many years and had to wear a collar to protect the top of her spine. The taxi was a LTI TXI [REDACTED] was first licensed as a hackney carriage driver on 10 August 1988.
- 3.2 The hackney carriage driver and her father lifted the wheelchair and [REDACTED] into the vehicle and left the wheelchair sideways inside the cab with her father holding onto the wheelchair.
- 3.3 [REDACTED] was securely strapped in her wheelchair but the wheelchair itself was not secured within the taxi.
- 3.4 During the journey, upon entering one of the road tunnels, the taxi had cause to brake, this resulted in the wheelchair jerking causing a very serious high cervical spine injury.
- 3.5 [REDACTED] lost consciousness immediately and died 2 days later despite extensive medical treatment at the Diana, Princess of Wales Children's Hospital, Steelhouse Lane, Birmingham.
- 3.6 On 7 July 2009 an inquisition was held at Birmingham Coroners Court before H M Coroner, Mr Aiden Keith Cotter. Evidence was heard from:
- [REDACTED], father of the deceased.
 - [REDACTED], Diana, Princess of Wales Children's Hospital.
 - [REDACTED], Hackney Carriage Driver.
 - P C DuCros, West Midlands Police.
 - P I Hines, West Midlands Police.
 - Peter Barrow, Head of Licensing.
- 3.7 Peter Barrow, Head of Licensing, was cross examined about the training received by hackney carriage drivers regarding securing of wheelchairs in taxis.
- 3.8 Mr Barrow stated that there is a handbook supplied with each hackney carriage vehicle explaining how wheelchairs should be properly loaded, restrained and unloaded. Mr Barrow explained that drivers should follow the manufacturers or converters recommendations, however, should insist that the passenger travels in the correct position as recommended by the vehicle manufacturer, or conversion team. In this case, this position will be facing the rear of the vehicle, ensuring the brakes of the wheelchair are on. The wheelchair should then be secured with the restraining belt and the passenger also uses the seat belt provided

- 3.9 Peter Barrow gave evidence that from June 2004 all new applicant taxi drivers (both hackney carriage and private hire) have been required to attend a Disability Awareness Training course.
- 3.10 It was accepted that the existing hackney carriage drivers prior to that date may not have undergone any formal training regarding the safe loading and unloading of wheelchairs and accompanying passengers. Whilst existing drivers were encouraged to attend the training, it is not mandatory to do so.
- 3.11 Whilst Mr Cotter concluded the death was as a result of an accident, he indicated that to avoid possible future consequences, that all existing hackney carriage drivers should formally undergo that training.
- 3.12 On 31 July 2009, Mr Cotter confirmed his findings in writing and stated that it was clear from the evidence that [REDACTED] death may well have been avoided if her wheelchair had been secured in the taxi. He also enclosed a copy of the Inquisition and Rule 43 of the Coroners Rules 1984 (as amended by the Coroners (Amendment) Rules 2008). See attached appendix.
- 3.13 Consultation with the hackney carriage trade representatives has been ongoing both before and after the Coroners verdict. The taxi trade representatives welcome the recommendation as many taxi drivers are concerned about the health and safety aspect of wheelchair passengers and their own responsibilities and liabilities.
- 3.14 No action was taken by West Midlands Police against [REDACTED] regarding this unfortunate incident. [REDACTED] has since successfully passed the NVQ in Road Passenger Transport.
- 3.15 A subsequent taxi liaison meeting was held on 26 August 2009, where the taxi trade representatives confirmed that the proposed recommendation in this report is not only reasonable but also proportionate. However, they did suggest that hackney carriage drivers be afforded a reasonable period of time in which to undertake the required training.

4. Implications for Resources

- 4.1 No specific implications have been identified.

5. Implications for Policy Priorities

- 5.1 No specific implications have been identified.

6. Implications for Equality and Diversity

- 6.1 The report specifically relates to the disability awareness training of hackney carriage drivers.

DIRECTOR OF REGULATORY SERVICES

Background papers: Nil

APPENDIX

Aidan Keith Cotter LL.B., M.B.A., C.M.D.

Her Majesty's Coroner for the City of Birmingham and the Borough of Solihull,
Coroner's Court, [REDACTED]

Our ref: AKC/lmh
31st July 2009

Mr. Peter Barrow,
Head of Licensing,
Birmingham City Council,
[REDACTED]

BCC
REGULATORY SERVICES
HEADQUARTERS
DATE RECEIVED
05 AUG 2009

REF No.
INITIALS

Dear Mr. Barrow,

Re: [REDACTED] (deceased)

I am reporting this matter to you in accordance with rule 43 Coroners Rules 1984 (as amended by the Coroners (Amendment) Rules 2008). I enclose a copy of the Rule (as amended).

In accordance with rule 43, a copy of this report is being sent to the Lord Chancellor and all the other properly interested persons identified at the inquest [together with other people who I believe may find it useful or of interest]. A list of copy recipients can be found at the end of this report. Your response to this report will also be shared with those listed.

I enclose herewith a copy of the **Inquisition**.

It was clear from the evidence that [REDACTED] death may well have been avoided if her wheelchair had been secured in the taxi.

I hope that Birmingham City Council will give serious consideration to requiring all taxi drivers operating within the City to secure wheelchairs within the vehicle.

I understand that taxi drivers applying for a licence after June 2004 are required to attend a course of training under the Disability Discrimination Act. I can see no justification to restricting that necessary and invaluable information to a small group of the taxi drivers. I would be grateful if Birmingham City Council would arrange for all taxi drivers operating within the City to undergo that training.

It may well be that the City have already put these matters in hand. I look forward to hearing from you.

Yours sincerely,



Aidan Keith Cotter
H. M. Coroner
Birmingham and Solihull Districts



Business No: 0121-303 4274 Home Phone: [REDACTED]

Copy to:

Mr. Jack Straw, Lord Chancellor

[REDACTED]

PC 1905 DuCros
Mr. Ashfaq Hussain
Mr. Peter Barrow
PI 8129 Hines
PC 0641 Slater
Ms. J. Kennedy



I 0198/2009

INQUISITION

An Inquisition taken for our Sovereign Lady the Queen

At Birmingham on 7th day of July 2009
Before and by me Aidan Keith Cotter
Her Majesty's Coroner for Birmingham & Solihull Districts

The following matters were found

1. Name of Deceased - [REDACTED]
2. Injury or disease causing death
 - 1a. **HYPOXIC-ISCHAEMIC ENCEPHALOPATHY**
 - 1b. **OUT OF HOSPITAL CARDIORESPIRATORY ARREST**
 - 1c. **HIGH CERVICAL SPINE INJURY**
 2. **MORQUIO SYNDROME**
3. Time, place and circumstances at or in which injury was sustained.
[REDACTED] was 14 years old and had a disease which made her spine very unstable. She had been wheelchair bound for many years and had to wear a collar to protect the top of her spine. On 24th February 2009 she was in her wheelchair in a taxi when the wheelchair jerked causing a very serious high cervical spine injury. [REDACTED] lost consciousness immediately and died two days later despite extensive medical treatment. It is not known what caused the wheelchair to jerk. [REDACTED] was securely strapped in the wheelchair but the wheelchair itself was not secured within the taxi.
4. Conclusion of the Coroner as to the death
Died as the result of an accident.
5. Particulars for the time being required by the Registration Acts to be registered concerning the death

(a) Date and place of birth [REDACTED]	
(b) Name and surname of deceased [REDACTED]	
(c) Sex [REDACTED]	(d) Maiden surname of woman who has married
(e) Date and place of death 26/02/2009 DIANA, PRINCESS OF WALES CHILDREN'S HOSPITAL STEELHOUSE LANE BIRMINGHAM	
(f) Occupation and usual address [REDACTED]	

Signature of Coroner


 AIDAN KEITH COTTER

20. Guidance for coroners on changes to Rules 1-3
Coroner reports to prevent future deaths

1. The Coroners Rules 1984² are amended in accordance with rules 2 and 3.
2. For rule 43 substitute—

"Prevention of future deaths

43.—(1) Where—

- (a) a coroner is holding an inquest into a person's death;
- (b) the evidence gives rise to a concern that circumstances creating a risk of other deaths will occur, or will continue to exist, in the future; and
- (c) in the coroner's opinion, action should be taken to prevent the occurrence or continuation of such circumstances, or to eliminate or reduce the risk of death created by such circumstances,

the coroner may report the circumstances to a person who the coroner believes may have power to take such action.

(2) A report under paragraph (1) may not be made until all the evidence has been heard except where a coroner, having adjourned an inquest under section 16 or 17A of the 1988 Act, does not resume it.

(3) A coroner who intends to make a report under paragraph (1) must announce this intention before the end of the inquest, but failure to do so will not prevent a report being made.

²S.I. 1984/552, to which there are amendments not relevant to these Rules.

- (4) The coroner making the report under paragraph (1)—
- (a) must send a copy of the report to—
 - (i) the Lord Chancellor; and
 - (ii) any person who has been served with a notice under rule 19; and
 - (b) may send a copy of the report to any person who the coroner believes may find it useful or of interest.
- (5) On receipt of a report under paragraph (4)(a)(i), the Lord Chancellor may—
- (a) publish a copy of the report, or a summary of it, in such manner as the Lord Chancellor thinks fit, and
 - (b) send a copy of the report to any person who the Lord Chancellor believes may find it useful or of interest (other than a person who has been sent a copy of the report under paragraph (4)(b)).

Response to report under rule 43

- 43A.—(1)** A person to whom a coroner sends a report under rule 43(1) must give the coroner a written response to the report containing—
- (a) details of any action that has been taken or which it is proposed will be taken whether in response to the report or otherwise; or
 - (b) an explanation as to why no action is proposed within the period of 56 days beginning with the day on which the report is sent.

22 Guidelines for coroners on changes to Rule 33
Coroner's reports to prevent future deaths

(2) On receipt of a response under paragraph (1), the coroner—

- (a) must send a copy of the response to—
 - (i) the Lord Chancellor; and
 - (ii) except where paragraph (6) applies, any person who has been served with a notice under rule 19; and
- (b) except where paragraph (6) applies, may send a copy of the response to any person who the coroner believes may find it useful or of interest.

(3) Except where paragraph (6) applies, on receipt of a response under paragraph (2)(a)(i), the Lord Chancellor may—

- (a) publish a copy of the response, or a summary of it, in such manner as the Lord Chancellor thinks fit; and
- (b) send a copy of the response to any person who the Lord Chancellor believes may find it useful or of interest (other than a person who has been sent a copy of the report under paragraph (2)(b)).

(4) A person giving a response under paragraph (1) may make written representations to the coroner about—

- (a) the release, under paragraphs (2)(a)(ii) or (b) or (3)(b), of a copy of the response; or
- (b) the publication, under paragraph (3)(a), of the response.

(5) Representations under paragraph (4) must be made to the coroner no later than the time when the response is given under paragraph (1).

- (6) On receipt of representations under paragraph (4), the coroner may decide that the response should not—
- (a) be released in full under paragraphs (2)(a)(ii) or (b) or (3)(b); or
 - (b) be published in full under paragraph (3)(a).
- (7) If paragraph (6) applies—
- (a) the coroner must prepare a summary of the response; and
 - (b) paragraphs (2) and (3) apply to the summary of the response prepared by the coroner as they apply to the response received under paragraph (1).

Extension of time

43B. A coroner may extend the period of 56 days mentioned in rule 43A(1) (even if an application for extension is made after the time for compliance has expired).".

From: Damian Prince [REDACTED]
Sent: 06 September 2012 18:34
To: TPH
Subject: Taxi & Private Hire Service
Dear Sir/Madam,

I understand that you are currently looking at taxi law.

The law currently states that hackney carriage vehicles cannot charge more than the meter price if the journey is within its licensed borough.

I represent a taxi company which acts as a central reservation point for customers to book. (Due to our turnover we are required to register for VAT.) We then distribute the work to drivers who are self employed but not VAT registered.

Currently, for example if a driver does a job on account within our area and the meter reads £10.00 he expects £10.00 which is fine if the customer pays by cash. But if the journey is on account we must charge VAT but we are not allowed to charge more than the meter price so either the company loses 20% or the driver does.

Another possible scenario is if a customer who lives within our licensed borough but 10 miles away, requires a taxi 1 mile down the road, its not viable for us to provide a car, and as we are not allowed to charge a callout because this would be more than the meter price the customer cannot get a taxi.

We are often asked to tender for school journeys. As these contracts can last 4 years when tendering we are asked to factor in the journey itself, inflation, possible waiting time and any other expenses such as booster seats. If these journeys are within our licensed borough we would be unable to quote due to the cost being greater than the meter price.

Currently private hire law states as long as the fare is agreed in advance they can charge whatever they like. Hackney carriage law is the same providing the journey starts, ends or leaves the licensed borough.

I would appreciate if you could look into this dated law.
Kind regards,

Damian Prince
Director

Riverside CabCo Ltd
37 Florence Road
Fleet
Hampshire
GU52 6LG

E: [REDACTED]
T: 01252 613613
W: www.riversidecabco.com

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From: [REDACTED] on behalf of Suzie - Karma Kars Cotswold [REDACTED]
Sent: 06 September 2012 19:01
To: TPH
Subject: Objection to the Law Commission's 'Exemption for Wedding and Funeral Cars from Primary Legislation'
Dear Sir/Madam

I am writing to object to the Law Commission's White Paper which is recommending to “remove the exemption for wedding and funeral cars from primary legislation” under the taxi and private hire laws.

As a relative newcomer to the industry, I was attracted to starting my own wedding car hire company because there was no red tape or exceptional start-up costs, apart from the purchase of the vehicle and insurances.

So it was with enormous concern when I read about the proposed changes to my industry, which will absolutely decimate it in my opinion, for the reasons stated by our governing body NAWCP (National Association of Wedding Car Professionals) as listed below:

- 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.
- 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.
- 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.
- If this proposal goes through it will mean the end of well over a 1000 wedding car companies across the country
- 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.
- 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.
- Needless to say the provision of wonderful classic and vintage cars is an integral part of any couple's special day. This proposal will totally wipe out this wonderful British tradition.

I urge you and the Government to see sense in all of this and to remove this clause from the paper. We are an industry primarily of Sole Traders with a passion for our vintage, unusual and rare cars, which on one hand, you deem safe by waiving road tax and MOTs, and in the other hand, contemplate bringing in strict operating laws that taxis working 70 hours a week adhere to. We are NOT taxis and NEVER will be.

I feel so strongly about this that I started a Twitter campaign asking people to sign the petition against it. The Twitter company showed their support in droves by signing the petition and then retweeting in 50+ times to over 50,000 people.

I look forward to receiving official confirmation of my objection.

Yours faithfully

Suzie Goodman
Karma Kars Cotswold



Quirky, unique & funky 1950's-style vintage Indian Ambassador car based in the Cotswolds

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6th September 2012

Dear Sirs

Re: Proposed private hire legislation

I am the owner of several vintage and classic cars. I have run a small wedding car business since 1977. During this time I have maintained the vehicles to the highest standards sourcing parts from various small suppliers all over the country and employing painters, upholsterers and many other types of tradesmen. I am not alone in this as almost every town in the country has several companies supplying vintage wedding cars to the general public, from large professional companies to small one man bands. I undertake approx. 70/75 weddings per annum, which is about average for a small wedding car company. If you take into account the number of weddings per year, approximately 230,000 weddings per year in the UK and we undertake about 20 % of the total, you can see how many people would be affected.

Under the considered legislation to include wedding and funeral cars in the private hire legislation my business, along with many others, would become totally uneconomic. My vehicles cover on average a mileage of 1500 miles per year. They are used mainly in the summer months, predominantly at weekends. If I were to double the price that I charge it would still not pay for me to comply with the proposed legislations. My vehicles have nothing in common with mini-cabs. My customers book up to 2/3 years in advance and I get to know them personally. They know me, my name and address and telephone numbers. This is unlike mini-cabs which are worked 24/7 by various drivers doing up to 100,000 miles a year, probably picking up 75 to 100 different people per day and who have no personal contact with their customers.

A whole supply chain has built up to support the vintage and classic car enthusiast. Many owners of these vehicles supplement their income by doing occasional weddings for friends and family, some doing only 3 or 4 wedding per year. The income derived from this being spent on the maintenance of the vehicles. Should this source of income be withdrawn across the country I have calculated that up to 10000 jobs could be lost in the supply chain. You only have to look through Classic Car Weekly to see the number of specialist firms offering their services. You would be withdrawing a source of income from a very dynamic part of the economy, not least to say the loss of income to the treasury.

Your proposal as it stands would sound the death knell to the traditional vintage car being used as transport. Although I am not a funeral director I have contacted several in the local area who tell me that this proposal could lead to a 50% increase in the cost of a standard funeral.

Before any legislation is brought forward full consultation should be undertaken with all interested parties and the subject widely aired in the media. The cause and effect of this legislation will have long reaching ramifications.

I, myself, built up my business so that I would have a supplementary income in retirement. This, however, with the proposed legislation would be impossible and I like many others would be forced to sell my collection of cars purely to support myself.

Jerome Fellows

Director – V & M Limited

From: ANDRE WELCH [REDACTED]
Sent: 06 September 2012 20:35
To: TPH
Subject: TAXI REFORM
Reforming The Law Of Taxi & Private Hire Service.

I have read through all of the documents and the seventy three questions and have concluded that:

- Taxi and Private Hire licensing should remain a local matter
- Local Council's should be allowed to retain the power to restrict the numbers of hackney carriages subject to three yearly Unmet Demand Surveys
- Local Council's should be allowed to set distinctive local vehicle standards such as livery
- Local Council's should have comprehensive powers to set taxi fares for consumer protection
- Local Council's should be allowed to set standards for drivers, such as topographical knowledge testing for private hire drivers
- Local Council's should have adequate powers to control cross border hiring

Additional Comments

It is quite astonishing that the Law Commission has been engaged to re-write the established laws of the taxi trade based on the assumption that the current law "...is outdated". The intention to rip up established ground rules and rewrite the taxi and private laws will cause nothing but chaos for the trade and the public.

The Law Commission has attended many meetings with the trade around the UK and the overall consensus is that these meetings are facade as the decisions have already been made on such matters as removing the power of local councils to control their hackney carriage fleets and to allow private hire vehicles licensed in one area to work in effect 200 miles away in another area.

How can the "consultation" be regarded as a consultation when comments from the Law Commission to the effect "...we will delimit" have been made?

This "consultation" is a completely bungled whitewash as proved with the withdrawal of the "Impact Assessment" document that was shown to be inaccurate.

Removing the power to control hackney carriage numbers will instantly cause mayhem in many towns and cities with councils being forced to issue as many hackney carriage licenses with no limit.

Have lessons not been learned from the situation in Ireland?

Has there been full consultation with areas that delimited... and are now re-limiting such as Crawley, Birmingham, Wirral & Coventry because of the problems that delimitation has caused to the trade?

Not only will delimiting have an impact on the trade with drivers having to fight for parking spaces and causing extra pollution driving around because of limited spaces... it will also have an effect on enforcement with the increase work required to manage all of these extra vehicles plying for hire and blocking up the roads waiting to get onto ranks.

- Can the Law Commission really believe that by removing hackney carriage limits will have a beneficial effect for the public with drivers having to work extensive hours?
- Can the Law Commission really believe that private hire vehicles licensed in Birmingham.... but work in Brighton & Hove without a reasonable amount of topographical knowledge... be safe when purely relying on a satellite navigation system?
- Can the Law Commission really believe it is acceptable for Brighton & Hove licensing officers to have to handle complaints about private hire vehicles licensed in Birmingham who work in Brighton & Hove?

The UK taxi/private hire trade is unique in its composition and plays an enormous part of the UK's transportation system a 24/7 365 days a year basis. What other public transportation system does this? Yet the majority of the trade is self employed with absolutely no subsidies whatsoever.

The current government actively promotes localism.. and yet the proposals from the Law Commission completely contradicts this.

The Law Commission Consultation of "Reforming the Law of Taxi & Private Hire Service" should be immediately halted before utter pandemonium of the UK taxi and private hire trade is caused.

Name:.....MR. ANDRE F. WELCH.....

Licensing Authority:.....BRIGHTON AND HOVE.....

Vehicle/Badge Nos:.....CAR 338 DRIVER 55.....

Signed:.....A.F. WELCH.....

Date:.....06/ 09/ 2012.....

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From: wetherall lesley [REDACTED]

Sent: 06 September 2012 21:16

To: TPH

Subject: re; classic wedding cars

I brought a business about 4 years ago which had 8 classic vehicles,if these changes came into operation it would put me out of business and possibly lose my house.In the 4 years i have had the businees with running costs and fuel increases every week and the extra charges which may come into operation !.i have not increased my prices for over 2 years otherwise i would not be using the cars.Please can you consider not touching the wedding cars and funeral cars and this will have great impact on our prices which will have to passed on to the customers in such a difficult time,where money is very short.Thankyou for reading this email .

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From: Graham Welch [REDACTED]
Sent: 06 September 2012 21:52
To: TPH
Dear Sir

Taxi & Private Hire services Ref.LCCP 203

I am writing in relation to the above report. It seems to me that one of your suggestions would be degulation of the taxi trade. This actually horrifies me as I see no benefit to owners, drivers, or members of the public. After being a taxi owner driver for the last 32 years, this is, without doubt the worse period that I have faced financially. If your suggestions were implemented my only conclusions would be: hardship, bankruptcy, and utter chaos. Here in Manchester we have a taxi licensing section that is not fit for purpose. For a number of years, there have been increasing amounts of taxi licenses with little regard to the effects on the trade. Any extra ranks that they have provided have been badly positioned and have not been used by the trade. This is due to lack of consultation. There are other issues, too numerous to mention that leads me to believe that the licensing section in my area definitely needs to be investigated to see if they are fit for purpose.

But, as far as deregulation is concerned, which basically means more taxis, my experience leads me to believe that this would only increase the hardship on owners and drivers and, at worst, unscrupulousness from drivers struggling to make a living.

I hope that you take my thoughts and those of other drivers into consideration.

Yours faithfully

Graham Welch
Manchester Hackney Carriage plate No. 903

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From: Chris Bradbury [REDACTED]
Sent: 07 September 2012 00:42
To: TPH
Subject: Wedding car legislation would be a disaster!
To the Law Commission : Wedding car and driver legislation

With regard to the proposed legislation, I would like to make the following points:

* **MOT type tests for wedding cars**

I drive wedding cars including a 1927 and 1934 Rolls Royce. Although separated by only seven years, the cars have substantially different braking systems, lighting and handling characteristics. It would be impossible to apply the same test to cover these two cars, as they differ so much mechanically, and the expectations of their driving capabilities were much less when they were built. Even testing two cars of the same year but of different makes would be impossible as a Rolls Royce for example, would handle and stop much better than say, and Austin 7 of the same age.

In addition, prewar cars are radically different from modern cars, and require some experience and knowledge to drive them correctly and safely. Drivers of these cars are nearly always mature and very experienced drivers, who know how to double-declutch and adjust the various controls not found on modern cars. They also understand that these cars have to be driven in a certain way to progress smoothly and safely. It is most unlikely that any modern MOT test station would have testers who have ever driven this type of car, and would probably have problems even knowing how to start the car - how could these often valuable cars be given a test without being damaged through accidental misuse?

Even if these problems could be overcome, it would be necessary for the tester to have a thorough knowledge of the capabilities of the engines and gearboxes of each and every model, or again, serious damage could be caused accidentally. It would be necessary for each test station to have substantial insurance to cover these eventualities.

The cost of these tests would have to be passed on to the clients, raising the already hefty costs of a wedding, which in turn would result in a decrease in bookings, with inevitable business failures and loss of income for drivers who are mostly in the 60+ age group, and who would find it difficult to replace that income.

* **Drivers**

The proposed requirement for drivers to have a PCO type licence

The first question is... why?

Most drivers of wedding cars are in their 60's who are highly experienced, or if younger, in professional driving like driving instruction or private chauffeurs.

Medical reasons? I have never heard of a wedding car driving suffering a serious illness while driving and endangering life. Searching the internet produces no results either.

Police check? Why? What possible scenario have the Commission envisaged that would require a driver police check? There are usually adults in the car, and if children are carried, it is only to the wedding venue, and **always** with adults in the car too.

Having had a PCO licence I am well aware of the costs - in my case, over £400.00. As most drivers are of pensionable age making a small addition to their modest incomes, this would represent a substantial percentage of their earnings and in many cases, make driving uneconomical. This would result in either a loss of many experienced drivers, or another rise in the costs of hiring wedding cars

and yet
another cost to be passed on to the client.

Companies that could not survive the additional costs reducing their business would have to sell up, creating more business failure and unemployment.

To conclude, I strongly oppose the proposed legislation which will result in loss of businesses, loss of income for those who would find it difficult to replace due to age, and other knock-on effects such as loss of business for those who service these cars, and supply spares.

If implemented, this legislation will create a strong adverse reaction as those on lower incomes are seen to be targeted yet again, and the raising of yet another tax is seen as the real reason for this idea. This is a bad idea, impossible to implement without massive amounts of costly red tape, and a certain vote loser across the political spectrum.

Chris Bradbury


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From: Geoffrey Hall [REDACTED]

Sent: 07 September 2012 08:16

To: TPH

i am writing to express my concerns over the new legislation that is proposed in relation to funeral and wedding cars and services . my father is a retired funeral director and both he and i have a strong interest in classic and vintage cars . he has a collection of vintage rolls royces that he also uses for weddings along with some classic daimlers , this not only gives him an interest but also keeps the cars on the road and running for enjoyment of futre generations . i feel that because of the age of some of our cars it would be impossible to meet these legislations as our oldest car is 1927 . i appreciate the safetey aspect of this and prior to any of this new legislation being discussed we where informed that vehicles pre 1960 will be mot exempt we had already decided to keep mot testing our vehicles to maintain the level of safety of the cars and maybe insisting that cars being used in the wedding industry are to be contnually mot tested is a more sesible approach from a safety angle

yours faithfully

geoffrey hall ,

t,a, gordon

hall wedding services

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SOUTH RIBBLE BOROUGH COUNCIL

RESPONSE TO CONSULTATION PROPOSAL TO REFORM THE LAW OF TAXI AND PRIVATE HIRE SERVICES – MAY 2012

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)*

Response to provisional proposal 1

A one tier system would be preferred as this would result in less confusion for members of the public, market forces would determine the level of specialized vehicles e.g. school contracts, disabled customers etc.

We do not feel that the proposals in relation to minimum safety standards/additional standards for Taxis are fair. We do not believe that market forces will mean the private hire industry will keep their standards high. The proposal could also lead to unnecessary legislation from the Taxi trade as how could a LA justify increased standards for one set of vehicles when a set of standards for another set would already exist which would be deemed to be all that is required to ensure the protection of the public.

If this proposal remains it is important that the correct minimum standards are set. This will be the critical marker as to whether or not the new legislation will be a success. Protection of the public has to be the paramount consideration.

CHAPTER 14 – REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

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

Response to provisional proposal 2

Yes – this should be national to avoid confusion.

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)*

Response to provisional proposal 3

Yes, market forces would dictate this and public safety is paramount.

Question 4

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

Response to question 4

No, see response to provisional proposal 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)*

Response to provisional proposal 5

Yes they should be excluded – the definition should have no grey areas. It should be a taxi / private hire vehicle or a public service vehicle, loop holes should be removed.

Provisional proposal 6

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

Response to provisional proposal 6

Agreed – see response to provisional proposal 5

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)*

Response to provisional proposal 7

Yes however the guidance should be made available to local authorities. A change in legislation would be preferred as guidance can be interpreted differently. Also consideration to the licensing of the drivers of such vehicles should be given as they often face different requirements to those of a normal taxi driver. Within our authority all drivers are expected to undertake a BTEC or DSA taxi driving course. Although these courses are good they are not particularly relevant for say limousine drivers whose work is significantly different from a day to day private hire driver.

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)*

Response to provisional proposal 8

“Volunteers” should be included in the scope of taxi legislation, public safety is paramount.

Problems also arise when for example night clubs employ people to drive novelty vehicles to pick up customers from town centres and take them to specific venues. The customer never pays a fee for the transport – can this be described as “in the course of business”. It may be better to specify named exemptions such as Child minders etc

Question 9

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

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

Response to question 9

- a) carpooling should be exempt – see above re Child minders
- b) members clubs should be included in the scope of the legislation

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)*

Response to provisional proposal 10

Yes. This could be a useful tool to deal with technical advances and unforeseen problems. That said the powers should cover both taxi and private hire systems not just one system.

Provisional proposal 11

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

Response to provisional proposal 11

Yes – public safety is paramount.

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)*

Response to question 12

No – public safety is paramount.

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}*

Response to provisional proposal 13

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)*

Response to question 14

Yes. We have no airports within our borough but can see the advantage of this proposal.

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)*

Response to provisional proposal 15

- a) yes
- b) yes
- c) yes – if a 2 tier system is kept

Provisional proposal 16

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

Response to provisional proposal 16

Yes – it is important to keep these separate if a two tier system is to be kept.

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)*

Response to question 17

None – seems just as confusing and open to interpretation as the definitions we currently have.

Provisional proposal 18

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

Response to provisional proposal 18

Yes – this should be retained if both the driver and passenger can be conveyed safely.

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)*

Response to provisional proposal 19

Yes – if the two tier system is to be kept.

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)*

Response to provisional proposal 20

No – public safety is paramount. In addition most insurance companies will not insure other drivers for vehicles that are used for hire and reward. With limited enforcement budgets it would be near on impossible to police the use of the vehicles even if the burden of proof was reversed

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)*

Response to provisional proposal 21

Regulation and legislation is preferred. If a two tier system is staying the differences should be clearly defined in legislation. This should reduce the scope for legal challenge.

Provisional proposal 22

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

Response to provisional proposal 22

We don't think the proposal will improve the current situation. Its acknowledged that the majority of the general public don't even know that there are two types of “taxi” let alone what those differences are. If a two tier system is to remain proper thought has to be given to the definitions for each type keeping in mind the understanding of 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 “prebooked” and did not otherwise lead to customer confusion? *(Page 186)*

Response to question 23

No – see above. Confusion already exists and this would only make it worse for the general public.

CHAPTER 15 – A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

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

Response to provisional proposal 24

Yes – public safety dictates this. The important thing is setting the right standards. This needs to be addressed properly if the new arrangements are going to work as it is intended especially as Local Authorities will no longer have the power to regulate the private hire sector above those standards. If done properly it could ease the burden on Local Authorities, provide consistency and ensure the public are properly protected.

Provisional proposal 25

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

Response to provisional proposal 25

Agreed but see comments above.

Provisional proposal 26

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

Response to provisional proposal 26

Agreed

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)*

Response to provisional proposal 27

We agree in the main but we do feel that local knowledge tests are important especially with small local authorities such as ours as there are only a small number of private hire operators with one of two of those we have controlling the majority of the market. Customer choice is restricted and as such the controls you would be relying on to govern standards and conduct would not be present.

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)*

Response to provisional proposal 28

Yes – public safety and assisting in regulation.

Question 29

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

Response to question 29

A clear steer and time frame with transitional arrangements are required.

Question 30

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

Response to question 30

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)*

Response to provisional proposal 31

Agreed the rest should be left to Local Authorities but should allow for standards to be set against private hire and taxis.

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)*

Response to provisional proposal 32

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)*

Response to question 33

Yes - the statutory requirement to consult should refer to a technical advisory panel.

Provisional proposal 34

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

Response to provisional proposal 34

Agreed and for private hire due to reasons set out in question 27

Question 35

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

Response to question 35

Yes

Question 36

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

Response to question 36

Yes – public safety is paramount.

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)*

Response to question 37

Powers and duties should be statutory to ensure consistency nationally.

Provisional proposal 38

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

Response to provisional proposal 38

Yes – think shared services.

Provisional proposal 39

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

Response to provisional proposal 39

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)*

Response to question 40

No, this would be an “enforcement” nightmare. It may be useful in City centers but not for the majority of local 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)*

Response to provisional proposal 41

Licences should not be restricted in this way.

Provisional proposal 42

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

Response to provisional proposal 42

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.

Response to provisional proposal 43

Agreed – public safety is paramount. A passenger can shop around when pre-booking but they cannot do this is hired from a taxi stand.

Question 44

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

Response to question 44

No – see response to provisional proposal 43.

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)*

Response to provisional proposal 45

- a) *yes*
- b) *no*

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)*

Response to provisional proposal 46

Agreed. The test should remain for drivers.

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)*

Response to question 47

- a) no
- b) yes – this would be future proof

Provisional proposal 48

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

Response to provisional proposal 48

Yes – public safety is paramount.

Question 49

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

Response to question 49

Yes – public safety is paramount.

Provisional proposal 50

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

Response to provisional proposal 50

Agreed

Question 51

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

Response to question 51

Yes – should also include radio circuits

Provisional proposal 52

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

Response to provisional proposal 52

Agreed

Question 53

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

Response to question 53

Yes – public safety is paramount.

CHAPTER 17 – REFORMING QUANTITY CONTROLS

Provisional proposal 54

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

Response to provisional proposal 54

Agreed – market forces will dictate We have been deregulated for some time and have no problems.

Question 55

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

Response to question 55

In areas that are currently regulated there may be a temporary “over ranking” of taxi stands but market forces would ultimately dictate.

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)*

Response to question 56

Yes, this would prove useful to local authorities in that situation.

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)*

Response to question 57

No, market forces will ultimately dictate requirements. Alternatively, a percentage set by central government should be considered along with guidance on how to implement this.

Question 58

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

Response to question 58

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)*

Response to question 59

Through legislation, e.g. all hackneys

Provisional proposal 60

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

Response to provisional proposal 60

Very well

Provisional proposal 61

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

Response to provisional proposal 61

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)*

Response to provisional proposal 62

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)*

Response to question 63

It may but it would be hard to enforce.

CHAPTER 19 – REFORMING ENFORCEMENT

Question 64

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

Response to question 64

Yes – public safety is paramount.

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)*

Response to question 65

Clarification through legislation, see provisional proposal 13 and 15.

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)*

Response to question 66

Yes – but only for public safety reasons. Local authorities could look at police contracts to assist with this process.

Question 67

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

Response to question 67

Yes, the ability to issue fixed penalties for minor breaches in the first instance would be useful.

Provisional proposal 68

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

Response to provisional proposal 68

Yes – this is a must with the removal of “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)*

Response to question 69

Yes as far as a suspension of vehicles is concerned however driver decisions should be referred back to the local 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)*

Response to provisional proposal 70

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)*

Response to provisional proposal 71

No, this is pointless as the decision has already been made.

Provisional proposal 72

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

Response to provisional proposal 72

Agreed

Question 73

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

Response to question 73

Yes

From: Clive Kirk [REDACTED]
Sent: 07 September 2012 09:13
To: su@[REDACTED]
Subject: Reforming the law of taxi and private hire services

From: [REDACTED]
To: tph@lawcommision.gsi.gov.uk
Subject: Proposal in Consulatation
Date: Fri, 7 Sep 2012 09:09:55 +0100

To Whom It May Concern

I have just been made aware of the proposal in consultation on the reform of private hire and taxi licence regulations and have read with dismay an article in our Monthly Funeral Director magazine of this consultation, that will take place I believe on 10th September and of which could effect funeral businesses dramatically.

If the proposals are correct I understand that all my chauffeurs would have to take individual license driving standards agency private hire/taxi driving tests, also a group 2 medical examination and a criminal records bureau check along with my company having to take an operators licence.

This would have a large financial impact to any funeral business and also to the families we as professional people serve and of course the family is once again begin blasted with more financial strain at their most vulnerable time in their bereavement, as these charges would have to be absorbed within the funeral costs.

I do also raise the issue that we transport the bereaved to a place of worship and then on to a place of rest and that we are not actually taking fares as a normal hackney carriage or taxi would. With the matter of chauffeurs being criminally checked, I can see the moral aspects of this but usually funeral businesses do take their own in house procedures on employment checks .

I urge the commission to look very closely at this proposal and strongly vote against these unfair recommendations.

Clive Kirk
National President
British Institute of Funeral Directors
Turners Funeral Service
Conisbrough
Doncaster

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LAW COMMISSION CONSULTATION PAPER ON REFORMING THE TAXI AND PRIVATE HIRE SERVICES LAW

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)*

Proposed response

Agreed.

Provisional proposal 2

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

Proposed response

Agreed.

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)*

Proposed response

The principle is accepted but it is felt however that there could be a distinction in the type of vehicles used for taxis as opposed to private hire vehicles and an ability to specify specific vehicles for taxis should continue. This is important because taxis need to be able to meet all the requirements for all passengers because they can be hailed on the street and wait at ranks and therefore should be able to deal with any member of the public. Whereas private hire vehicles are different in that they are pre-booked and therefore the operator can ensure that the appropriate vehicle goes to pick up the appropriate passenger. Therefore, for private hire vehicles, it is appropriate that any particular type of vehicle can be used varying from small vehicles to much larger vehicles.

Question 4

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

Proposed response

None, pedicabs and horse drawn vehicles would be excluded and safety issues may still arise.

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)*

Proposed response

Agreed.

Provisional proposal 6

References to stage coaches charging separate fares should no longer feature as an exclusion from the definition of taxis. *(Page 165)*

Proposed response

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)*

Proposed response

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)*

Proposed response

Agreed.

Question 9

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

a) carpooling; and

b) members clubs? *(Page 170)*

Proposed response

a) car pooling should not be licensed.

b) member clubs should be covered by the 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. *(Page 171)*

Proposed response

Agreed. Without this ability it would be necessary if changes were required to seek to amend primary legislation which causes significant delays. However, proposed changes should be subject to consultation.

Provisional proposal 11

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

Proposed response

Agreed.

Question 12

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

Proposed response

There are merits in the Secretary of State having powers flexible enough to deal with exemptions. An exemption for public sector contracts would be sensible as would a list of specific exclusions, provided the exclusions were subject to consultation.

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)*

Proposed response

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)*

Proposed response

This is not relevant to Maidstone as it has no airport.

Provisional response 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)*

Proposed response

Agreed.

Provisional proposal 16

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

Proposed response

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)*

Proposed response

The authority sees no advantages to adopting the Scottish approach.

Provisional proposal 18

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

Proposed response

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)*

Proposed response

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)*

Proposed response

Agreed as long as it is very clear that the presumption is that the vehicle is being used for professional purposes at all times unless the driver can prove to the contrary.

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)*

Proposed response

Agreed.

Provisional proposal 22

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

Proposed response

Agreed.

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)*

Proposed response

If the previous proposal to define hackney carriages as taxis is agreed it is this authority's view that use of the word "taxi" should refer only to those vehicles able to ply for hire. However, it does have a relaxed view on the use of the words "cab" or "mini cab" and feels that those words could be used in describing a private hire vehicle in conjunction with "pre-booked". It also considers that use of the words "pre-booked taxi" does not highlight the difference between the two types of vehicles significantly enough, particularly as it is possible to pre-book taxis. Therefore the authority is of the view that the word "taxi" should be only used for what is currently defined as hackney carriages.

A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

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

Proposed response

Agreed.

Provisional proposal 25

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

Proposed response

Agreed

Provisional proposal 26

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

Proposed response

Agreed

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)

Proposed response

The Authority feels that it is important that all drivers, including private hire drivers, should have a high level of topography knowledge which it is felt can only be achieved by a form of topography 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? (Page 190)

Proposed response

The Authority feels that local standards in respect of vehicle signage, as indicated in the report, would be helpful. This can vary from area to area and local knowledge would be the best provider of the standards required in a particular area. However, Private Hire vehicles should not be allowed to use "Taxi" or "Taxis".

Question 29

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

Proposed response

None, but like Maidstone a number of authorities specify specific vehicles, such as London style cabs, which may require different or additional tests but this can be included in the National Standards.

Question 30

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

Proposed response

No, but sometimes with the choice of vehicles, such as in Maidstone where we have London style cabs, differences could happen anyway if additional measures are fitted within 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)

Proposed response

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)

Proposed response

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)

Proposed response

The best approach in determining the content of national safety standards is in consultation with all the relevant bodies including licensing authorities, private hire operators and representatives from each of the appropriate national associations. If it was possible to draw from these bodies a technical advisory panel which would give first consideration to any proposals before the formal consultation takes place this would be very helpful.

Provisional proposal 34

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

Proposed response

Agreed.

Question 35

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

Proposed response

Agreed

Question 36

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

Proposed response

The licensing authority should have the power to impose individual conditions on taxi and private hire drivers or operators as there are some local issues which may not be able to be covered in national conditions but perhaps before this could be implemented it would require the agreement of the Secretary of State.

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)

Proposed response

It would be extremely helpful if legislation made it easier for authorities to work together such as making it easier to enable delegations in one authority to be given to employees of other authorities. However, it should also be the position that this type of arrangement is encouraged by making it simpler to do but the final decision to work together and join forces should be left to local decision making.

Provisional proposal 38

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

Proposed response

Agreed it would be helpful that neighbouring licensing authorities would have the option of combining areas for the purposes of taxi standard setting but that would still require local agreement from each of the partners involved.

Provisional proposal 39

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

Proposed response

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)*

Proposed response

This could be useful and should be explored as it could meet a potential need at peak hours, such as a Friday and Saturday night between 10.00pm and 5.00am. The vehicle could be highlighted by a different colour plate or some other clearly identifiable means.

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)*

Proposed response

Agreed

Provisional proposal 42

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

Proposed response

All Taxis and Private Hire Vehicles should return to their licensing authority area upon completion of their journey, otherwise the link to the local area could be lost and big national companies could take a far larger slice of the business which could lead to the loss of local companies and local service.

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)*

Proposed response

Agreed.

Question 44

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

Proposed response

Yes, as taxis should not be treated differently from private hire services for pre-booked journeys.

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)

Proposed response

The outline of the national driver safety standards such as the requirement to be a “fit and proper person” should be covered in primary legislation. However additional matters could be included in the Secretary of State’s guidance for enhanced flexibility.

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)

Proposed response

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)

Proposed response

The outline of National Vehicle Safety Standards should be set out in primary legislation but the details should be dealt with by the Secretary of State’s general powers.

Provisional proposal 48

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

Proposed response

The arguments put forward for retaining operator licences clearly outweigh those against and therefore this authority is in favour of retaining operator licensing.

Question 49

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

Proposed response

Yes, on the basis of public safety and parity with the private hire trade.

Provisional proposal 50

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

Proposed response

Agreed.

Question 51

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

Proposed response

Yes.

Provisional proposal 52

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

Proposed response

Agreed.

Question 53

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

Proposed response

Yes. The Authority feels that taxi drivers, when they have taken a pre-booking, are acting in the same capacity as private hire services and therefore should be subject to the same conditions.

REFORMING QUANTITY CONTROLS

Provisional proposal 54

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

Proposed response

Maidstone is completely opposed to removing the power to restrict taxi numbers.

Question 55

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

Proposed response

The Authority considers that this would cause a number of problems particularly in the Maidstone area. Maidstone, by having its restriction, has been able to improve the quality of vehicles by introducing London style cabs which gives better disabled and in particular, wheelchair access for users. This is particularly relevant when these vehicles are hailed off the road and from ranks and therefore uniformity in these vehicles has brought a consistency in service for the disabled users of taxis. This can be dealt with differently in respect of private hire vehicles who can supply the appropriate vehicle for the appropriate passenger when taking the booking.

Additionally, Maidstone has a limited number of ranks and therefore an excessive number of taxis could not be catered for within the Maidstone area in terms of rank space. Currently, the existing number of vehicles is more than the rank space that is available. This would mean more vehicles would be moving around in the town centre area with an increased impact of environmental pollution resulting from this larger number of vehicles moving on the road. Additionally, Maidstone has pedestrianised a large part of its town centre area but has allowed taxis to come through part of it. Having more vehicles moving up and down in this area would cause significant problems for what is mainly a pedestrianised area.

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)

Proposed response

If it was decided that quantity restrictions were removed, it would be very helpful to have transitional measures put in place. However, this Council would not wish to remove quantity restrictions.

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)*

Proposed response

This authority considers that it is necessary to have wheelchair accessible vehicles and for that reason it determined that all of its taxis should use London style cabs which are suitable for this purpose. It was felt that it was necessary to make this change for taxis to ensure that anyone hailing a taxi or putting up to the rank had an appropriate vehicle to be able to carry a disabled person with a wheelchair.

Question 58

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

Proposed response

Agreed it could encourage certain types of PHV to be disabled friendly, though not necessarily wheelchair accessible models?

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)*

Proposed response

In Maidstone we have introduced London style cabs for our taxi fleet.

Provisional proposal 60

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

Proposed response

The authority's policy of having wheelchair accessible vehicles using London style cabs has worked very effectively for the taxi trade.

Provisional proposal 61

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

Proposed response

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)

Proposed response

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)

Proposed response

This is not a noticeable problem for Maidstone.

REFORMING ENFORCEMENT

Question 64

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

Proposed response

Yes, licensing officers should have the power to stop licensed vehicles. Currently the licensing authority is only be able to run operations, such as test purchase operations in respect of illegally plying for hire, with the support of the police. This is particularly relevant in the current times with police resources being stretched and therefore their ability to support licensing authorities in their enforcement is more limited as they prioritise their activities.

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)

Proposed response

In Maidstone we have a significant problem of illegally plying for hire but there has never been an issue regarding touting.

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)

Proposed response

In principle this is a good idea but there will need to be agreed specific procedures relating to issues such as where and how long the vehicles would be kept, return or sale, cost recovery etc..

Question 67

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

Proposed response

Yes. There are benefits as it can deal with minor offences quickly and prevent the need to clog up the system either in the Licensing Authority or in the Courts.

Provisional proposal 68

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

Proposed response

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)

Proposed response

The principle of cross-border enforcement powers extending to suspensions and revocation of licenses is a good idea. However, the practical difficulties of achieving this cannot be resolved easily. The view of this authority is that the option of formal procedures for cross-border co-operation as set out in paragraph 19.25 is the most appropriate way forward. This is because it brings an element of formality to the system and also requires other licensing authorities to take action

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)

Proposed response

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)

Proposed response

Agreed.

Provisional proposal 72

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

Proposed response

Agreed.

Question 73

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

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Proposed response

Agreed, there should be an onward right of appeal to the Crown Court over specific issues.

From: Andrew Bingham [REDACTED]

Sent: 07 September 2012 09:44

To: TPH

Subject: Funeral Vehicles licensing

Dear Sir or madam

With regards to the proposed changes that may occur relating to the taxi licensing of funeral limousines. This is a change that is totally unnecessary, there has been no problem with funeral vehicles being run how they have for decades. It will cause mayhem to the profession. We are a small independent business employing 6 casual staff, it would just not be feasible to register all my employees and equally we have a vehicle which is over 10 years old however in extremely good condition (the public image of the company would not allow for anything else), this would now not be useable. The options we would have is to 1. Not have our own limousine and hire from carriage masters, they would have to charge a lot more than they do now due to the increased vehicle and employee tests and certification 2. Purchase a newer vehicle carry out the required certification and licensing of staff at great expense. The only outcome will be to pass the large increase on to the client who in this difficult economic climate, is the last thing they need. Bureaucratic nonsense.

Kind Regards

Andrew Bingham



ANDREW BINGHAM INDEPENDENT FUNERAL SERVICE

[REDACTED]
[REDACTED]
[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.
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WAKEFIELD METROPOLITAN DISTRICT COUNCIL

Date:7 September 2012

LAW COMMISSION – CONSULTATION PAPER No. 203

REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

Provisional Proposal/ Question No.	Proposal / Question	Councils View
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 Council would agree
CHAPTER 14 – REFORMS OF DEFINITIONS AND SCOPE		
Provisional proposal 2	London should be included, with appropriate modifications, within the scope of reform. (Page 162)	This Council would 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)	This Council would agree
Question 4	Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? (Page 164)	No – the definition needs to be broad and flexible

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 Council would 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)	This Council would 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)	A statutory definition would be assist consistency.
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 Council would agree with regard to volunteers, but wonder how this would work in the commercial sector if business’ such as pubs and restaurants were to offer free transport home.
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 be encompassed within regulation.

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)	No – any exclusions need to be defined by statute.
Provisional proposal 11	Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. (Page 172)	This Council would agree, in the interests of the safety of the travelling public the driver needs to be vetted and the vehicle safety needs to be addressed.
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 would be merits in permitting exemption for public sector organisations but not to others.
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 be widened to include private land as this would enhance enforcement capability.
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 – this will increase customer choice and improve competition.

Provisional proposal 15	<p>The defining feature of taxis, 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 vehicle <p>(Page181)</p>	This Council would agree.
Provisional proposal 16	<p>The concepts of hailing and ranking should not cover technological means of engaging taxi services.</p> <p>(Page 181)</p>	This Council would agree.
Question 17	<p>Would there be any 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>	No
Provisional proposal 18	<p>The concept of compellability, which applies exclusively to taxis, should be retained. (Page 182)</p>	This Council would agree; otherwise those passengers wishing to take unpopular (often short) journeys would be refused.
Provisional proposal 19	<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. (Page 183)</p>	This Council would 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)	This Council would disagree as co-operation of passengers is difficult to obtain.
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 is better left to local direction and case law.
Provisional proposal 22	Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned. (Page 185)	This Council would 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)	This Council would agree.
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 Council would agree.
Provisional proposal 25	National safety standards, as applied to taxi services, should only be minimum standards. (Page 189)	This Council would agree, as this would allow local authorities to top up such minimum standards in line with perceived local needs

		and requirements.
Provisional proposal 26	National safety standards, as applied to private hire services, should be mandatory standards. (Page 189)	No – they should be minimum standards which local authorities can top up in line with perceived local needs and requirements.
Provisional proposal 27	Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge no longer apply to private hire drivers. (Page 190)	No – private hire drivers need local topographical knowledge. Many complaints from the travelling public emanate from a lack of such knowledge.
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
Question 29	What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? (Page 191)	Do not understand.
Question 30	Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (Page 192)	No – drivers are equally at risk when alone with a passenger(s).
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 Council would agree, but these should be minimum standards.

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 Council would agree, if there are minimum standards and local authorities should be involved in a statutory consultation.
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)	There should be a technical advisory panel, but local authorities need to be a part of any consultation.
Provisional proposal 34	Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. (Page 193)	This Council would agree.
Question 35	Should there be statutory limits to licensing authorities' ability to set local taxi standards? (Page 194)	No
Question 36	Should licensing authorities' retain the power to impose individual conditions on taxi and private hire drivers or operators? (Page 194)	Yes – the taxi service is very much a local service and as such licensing authorities are in a better position to impose conditions that reflect local needs.
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 purpose of taxi standard setting. (Page 196)	Yes
Provisional proposal 39	Licensing authorities should have the option to create, or remove, taxi zones within their area. (Page 196)	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 day as prescribed by the licensing authority? (Page 197)	No – this would be confusing and 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)	This could be confusing and difficult to enforce.
Provisional proposal 42	We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs. (Page 199)	Despite the views of the commission Wakefield private hire vehicles provide a local service, the introduction of a return to area requirement would make enforcement easier to carry out.
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 Council would agree.

Question 44	Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (Page 200)	No
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) Yes – but a similar provision to those currently in place to enable licences to be refused for any other reasonable cause. (b) No
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)	No – many vehicle owners do not actively seek to maintain their vehicles, and this in itself can give rise to concerns about them being “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)	(a) No (b) Yes – the flexibility that this would provide would be the preferred option.
Provisional proposal 48	Operator licensing should be retained as mandatory in respect of private hire vehicles. (Page 207)	Yes – for the reasons outlined in the consultation paper.

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)	This council would agree
Question 51	Should “fit and proper” criteria in respect of operators be retained? (Page 210)	Yes – for the reasons outlined in the consultation paper.
Provisional proposal 52	Operators should be expressly permitted to sub-contract services. (Page 210)	Yes – provided booking ‘trail’ is maintained.
Question 53	Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? (Page 210)	Yes – to protect the passenger.
CHAPTER 17 – REFORMING QUANTITY CONTROLS		
Provisional proposal 54	Licensing authorities should no longer have the power to restrict taxi numbers. (Page 213)	To reflect local needs and demands the power should remain.
Question 55	What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? (Page 213)	Congestion at ranks and in town/city centres as “honey pot” locations are swamped. The stability of the market could be undermined leading to a deterioration in the service to the public.
Question 56	Should transitional measures be put in place, such as staggered entry to the taxi trade over a schedule period of time, if quantity restrictions are removed? (Page 215)	Yes

CHAPTER 18 – TAXI AND PRIVATE HIRE REFORM AND EQUALITY		
Question 57	<p>Should there be a separate licence category for wheelchair accessible vehicles? This could involve:</p> <ul style="list-style-type: none"> (1) a duty on the licensee to give priority disabled passengers; and (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. (Page 217) 	<ul style="list-style-type: none"> (1) This would be impossible to enforce. (2) This would be supported.
Question 58	<p>Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? (Page 217)</p>	<p>As fees are charged to cover the cost of the service, would other parts of the licensing regime be charged higher fees to offset this?</p>
Question 59	<p>Do you have any other suggestions for increasing the availability of accessible vehicles and catering for the different needs of disabled passengers? (Page 217)</p>	<p>No</p>
Provisional proposal 60	<p>We do not propose to introduce national quotas of wheelchair accessible vehicles. (Page 218)</p>	<p>This Council would agree.</p>
Provisional proposal 61	<p>National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. (Page 219)</p>	<p>Yes – Wakefield’s knowledge test specifically refers to disability awareness.</p>

Provisional proposal 62	In order to better address concerns about how to complain to the licensing authority. (Page 219)	Yes
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 – but this would be difficult to enforce unless taxis are to be subject of a requirement to keep records of pre-bookings.
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)	Current legislation is adequate
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
Question 67	Should licensing authorities make greater use of fixed penalty schemes and if so how? (Page 225)	Fixed penalty schemes should be made available.
Provision proposal 68	Enforcement officers should have the power to enforce against vehicles, drivers and operators licensed in other	Yes

	licensing areas. (Page 226)	
Question 69	Should cross-border enforcement power extend to suspensions and revocation of licences? If so what would be the best way of achieving this? (Page 226)	Yes – and any transgression should be dealt with by the authority where the transgression took place.
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)	Yes
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)	Unless there was to be additional charge for asking for a reconsideration, all those feeling aggrieved at the original decision would seek such reconsideration.
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)	Yes

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.

To move from a two tier system to a one tier system would dramatically reduce the amount of enforcement required and stop the constant battle between the two categories of drivers as experienced frequently in Milton Keynes.

CHAPTER 14 – REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform.

London should be in scope with appropriate modification.

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.

As it is difficult to predict trends and future modes of transport that may be provided as hire vehicles. It would seem sensible to provide a broad approach to the introduction of any new legislation. Exceptions can be included on the grounds of protecting public safety.

Question 4

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

The advantage would be that the number of vehicles that need enforcement would be reduced. However, this is not necessarily a benefit as the risk to public safety posed by vehicles not requiring a licence might be unacceptable.

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.

Public services should be excluded.

Provisional proposal 6

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

This should no longer feature as an exclusion.

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.

Clear guidance on the licensing of limousines should be issued.

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.

This would appear to be a sensible inclusion as the present situation is unnecessarily onerous on volunteers.

Question 9

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

(a) carpooling; and

(b) members clubs?

We have not found either carpooling or members clubs an issue within our borough. Therefore we have no opinion on this area of regulation.

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 that they should carry this degree of flexibility.

Provisional proposal 11

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

The secretary of State and Welsh Minister should be given the legislation to make suitable provision or not as appropriate.

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 Opinion

Provisional proposal 13

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

Agree that engagement with the public should not wholly be confined to "streets" as this can create local issues and does not provide consistent enforcement, so leading to misunderstanding and confusion.

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?

Airports should allow pre-booked travel by other than concessionary agreements to encourage free trade and market competition rates for tourists and other passengers.

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 that all the above should be included.

Provisional proposal 16

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

Agree a form of pre-booking should still take place and this should not be circumnavigated by the used of new technology.

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”?

This might be advantageous but would be dependant upon the legal definition of a public place.

Provisional proposal 18

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

Agreed otherwise those passengers wishing to undertake what might be considered a short journey, might have difficulty getting a lift during busy times or when drivers have had a long queuing wait on a rank.

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

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 if the vehicle is being used in a non-professional capacity, if all relevant signage and plates are removed.

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

Provisional proposal 22

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

Agreed as out of date 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 “pre-booked” and did not otherwise lead to customer confusion

The phrase “minicab” should be allowed to be used by private hire vehicles. They should not be allowed to use the word “taxi” even if in combination with the word “pre-booked”

CHAPTER 15 – A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements.

Agree National Safety requirements should be made and audits carried out to ensure that Local Authorities are enforcing the standard appropriately.

Provisional proposal 25

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

Agree as local conditions such as colour or the requirement for CCTV could be required.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards.

Disagree that the National Standards should be mandatory standards. As a public safety requirement such as CCTV might be required to be added to conditions as local factors might dictate such a requirement.

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.

As all journeys in private hire vehicles must be pre-booked any problems identifying the location of a destination should have been resolved prior to departure. So the need for a topological test is therefore superfluous.

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 discussions on signage might be required to address local factors.

Question 29

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

Local factors that affect signage the need for CCTV etc. If these are to be included in the standards

Question 30

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

Consideration might be made if CCTV is to be made a safety condition.

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.

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.

A Consultation 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?

A technical advisory panel is a good idea with the panel members being drawn from both enforcement authorities and trade associations.

Provisional proposal 34

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

Agree

Question 35

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

There could be a review committee that could scrutinise conditions that are proposed but objected to.

Question 36

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

If general conditions are set at a high enough standard then the requirement to impose more conditions would not be necessary.

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?

Such arrangements should be left to local arrangements which can be financially beneficial to smaller authorities.

Provisional proposal 38

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

Where local factors promote this type of operation then it should be allowed.

Provisional proposal 39

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

Yes creation or alterations should be allowed. This is because the local authority are best placed to understand local demands.

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 would be of benefit for authorities that have areas such those with a high density of late night entertainment venues. If this provision is made then authorities will have the ability to use the peak time licenses as circumstances dictate.

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.

Milton Keynes has an acute cross boarder activity problem. This causes problems between the drivers licensed in different areas which has resulted in violence on occasions. Enforcement has to be undertaken by the authority that the work is carried out in, while the licensing authority which they don't work in benefits from the relevant fees. Any condition that further encourages cross boarder activity will undoubtedly lead to further antagonism between drivers and an increase in enforcement activity for the relevant authority without the funding to support it. If cross border activity is to be encouraged then the allocation of fees would have to be addressed in combination with enforcement powers.

Provisional proposal 42

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

Disagree, "return to area" is a perfect way of reducing the problems created by cross border activity. This is because it is relatively easy to enforce by following taxis/PHV's to see if they return to their licensable area after a drop off.

Drivers would see the sense in licensing in the area they intend to work so the fees would be available to cover relevant enforcement costs.

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

Question 44

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

If there is an agreement of a charge between the two parties before the journey starts. Then it should be allowed even if the agreed charge might have been greater than the metered charge.

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?

A definition of “fit and proper person” as it relates to a licensed driver, should be set out in primary legislation. This would stop a lot of wasted time and effort in dealing with applicants who are clearly neither fit nor proper.

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.

There seems to be little benefit from making the vehicle owner subject to this test.

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?

National safety standards should be set out in primary legislation.

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles.

Agree

Question 49

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

No opinion on this matter.

Provisional proposal 50

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

The client should cover their position by the use of arrangements when using an intermediate. The definition should not be extended.

Question 51

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

The criteria of “fit and proper” in respect of operators should be retained. Consideration could be made to including the directors/partners of a company that is making an application to be an operator.

Provisional proposal 52

Operators should be expressly permitted to sub-contract services.

This should be allowed unless prohibited by the relevant contract.

Question 53

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

As the keeping of such records is relatively simple and not onerous. In the interest of public safety then these records should be maintained and made available for inspection when requested by an authorised enforcement officer.

CHAPTER 17 – REFORMING QUANTITY CONTROLS

Provisional proposal 54

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

It may be necessary for some authorities to restrict numbers dependant upon local factors. Although it would be thought that market forces would dictate numbers this does not always happen.

Question 55

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

The immediate response of high numbers of applications, which might overwhelm the administration section of a Taxi Licensing department. The resulting influx of Hackney Carriages to an area, with the resulting reduction in income of established drivers and resentment and associated repercussions.

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?

Staggered entry might prevent some of the problems that are suggested in the response to question 55.

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.

No separate license should be necessary.

Question 58

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

A lower fee would help to off set the costs incurred by purchase of a suitable vehicle and the associated training required to safely fix wheel chairs within the 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?

No other new ideas beyond the guidance give by the DoT. for 60% of Hackney Carriages being capable of accommodating wheelchairs.

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

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?

Enforcement is the only way to address this problem by following up reports from members of the public. An obligation to stop if safe should be a condition of their licence.

CHAPTER 19 – REFORMING ENFORCEMENT

Question 64

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

This power should only be allowed if proved to be used in an appropriate and proportional way. So circumstances where and when it is appropriate should be clearly defined.

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”.

Touting has not been found to be a recent problem in Milton Keynes.

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 is a draconian power and should only apply to circumstances affecting public safety when a real evident risk can be observed.

Question 67

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

A quick and easy method for penalising observable offences. This is presently used for smokefree offences in Taxis and is a useful deterrent.

Provisional proposal 68

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

Agree that this should be given to enforcement officers. A local agreement we have with a neighbouring authority works well.

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?

Such powers should be left to the licensing authority. Information supplied by the discovery authority and they forwarded this to the relevant authority. The licensing authority can then carry the brunt of the associated costs involved with such action and any subsequent appeal.

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.

This right of appeal should be opened wider than this, with anyone with a justifiable concern relating to a decision should be heard and inquiries made and then the appropriate action taken.

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.

Further scrutiny on a committee decision will increase the cost and time involved. Where there is already problems arranging committees due to frequency of committees and other demands on members time.

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court.

Yes as presently

Question 73

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

Agree.

**** Consultation Response ****

**Law Commission
Consultation Paper No 203
REFORMING THE LAW OF TAXI AND
PRIVATE HIRE SERVICES
A Consultation Paper**

[http://lawcommission.justice.gov.uk/docs/cp203_taxi-and-private-hire-services.pdf]

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)*

The Council considers that a well thought out single tier system would be simpler to manage and enforce. Many users will not be aware that there is currently a difference between private hire vehicles and taxis, and currently see both as a 'taxi'.

At a recent Institute of Licensing training day, Jessica Uguccione, Law Commission, outlined that private hire vehicles are safer than taxis due to the nature of the private hire business and that the client could 'choose' which private hire operator/vehicle to use. That argument, of course, is flawed on many counts; for example, no evidence has been provided to illustrate that private hire vehicles are safer than taxis and clients can choose not to use a taxi.

The proposed 2-tier system effectively deregulates private hire vehicles to a standard that may well be less than that required by a local licensing authority. It also maintains the status quo for taxis – surely that will create an unfair system as taxis may well be required to comply with additional costly local conditions.

Jessica also outlined that a decision will be made on the persuasive nature of responses rather than the majority view. We would challenge that basis as being biased and suggests that the matter has already been predetermined.

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 Council can see no justification for London to be differentiated from the rest of the Country. 'National' standards should be just that.

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)*

It is not entirely clear how wide this scope will be; however in principle, the extension to other modes of transport is supported. Minimum standards and robust guidance would be needed to support consistent licensing and enforcement across the Country.

Question 4

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

The Council can see no advantage to such a restriction. However, the drivers of vehicles that do require a driving/riding licence by Law should be included through condition, and drivers/riders of vehicles that do *not* require a driving/riding licence by Law should be required to have some form of assessment prior to a taxi licence being issued.

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 Council agrees 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)*

The Council agrees with this proposal.

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 Council 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)*

The Council agrees with this proposal. However, 'business' should be clearly defined and there should be some mechanism to ensure that the drivers of excluded vehicles are adequately insured.

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) The Council does not agree that carpooling should be regulated as per taxis and private hire. The definition of 'car pooling' should be clear and explicitly exempt from taxi and private hire law.

(b) The Pink Ladies case as detailed in Chapter 3 illustrates that the licensing authority's enforcement action was successful. That would indicate that 'members clubs' should be regulated by taxi and private hire Law.

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)*

The Council agrees with this proposal.

Provisional proposal 11

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

The Council agrees that it is not clear why there is such an exemption; this needs to be understood before a comment can be made. When it is understood, Provisional proposal 10 may well be considered.

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 repeal of the contract exemption was intended to 'enhance public safety'. Although not all of the original aims were achieved, some were, and as such the Council cannot see merits in reintroducing the contract exemption. In addition the reintroduction of contract exemption, may well lead to an increased difficulty in enforcement.

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)*

The Council agrees with this proposal, however anything other than, and including, a 'street' should be clearly defined.

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 comment.

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 Council agrees with this proposal; it must be clear and enforceable.

If a single tier system was introduced, this proposal becomes irrelevant as there would be no need for enforcement on this specific point of law.

Provisional proposal 16

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

The Council can see value in this proposal, however it would be very difficult to enforce. If a single tier system was introduced, this would not be an issue.

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)*

The Council does not agree with this proposal as a clear definition of 'plying for hire' is suggested at Provisional proposal 15.

Provisional proposal 18

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

The Council cannot see the argument to only apply this to taxis; it should equally apply to private hire vehicles. If a single tier system was introduced, this would not be an issue.

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 Council agrees with this proposal. However, as taxis are able to undertake pre-booked work, as are private hire vehicles, there is scope for confusion when a taxi is being used as a private hire vehicle. If a single tier system was introduced, this would not be an issue.

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)

The Council would not wish to dispute the relevant Case Law as referred to in the consultation document; however it does see an opportunity to revisit the decisions to establish if they remain relevant.

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)*

The Council 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)

The Council agrees with this proposal, if a 2-tier system is retained. If a single tier system was introduced, we would propose that the term “taxi” should be used.

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 Council disagrees with this proposal; if a 2-tier system is retained, the distinction should also be maintained. The argument contained within the consultation document, does indicate that the distinction is not important to the public, which would in turn add to the argument for a single tier system.

Chapter 15 – A reformed regulatory framework

Provisional proposal 24

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

The Council agrees with this proposal.

Provisional proposal 25

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

The Council agrees with this proposal, however this will inherently maintain inconsistencies across the Country.

Provisional proposal 26

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

The Council considers that private hire services standards should not be treated differently to taxi services standards i.e. local additions may well be equally necessary.

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 the service provided to the public is the same as a taxi or private hire vehicle, the Council considers that private hire services standards should not be treated differently to taxi services standards i.e. local additions may well be equally necessary. If a single tier system was introduced, this would not be an issue.

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)*

As the service provided to the public is the same as a taxi or private hire vehicle, the Council considers that private hire services standards should not be treated differently to taxi services standards i.e. local additions may well be equally necessary. If a single tier system was introduced, this would not be an issue.

Question 29

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

The key practical obstacle is the current significant inconsistency in taxi and private hire service standards across the Country, which will be extremely difficult to rectify.

Question 30

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

The Council disagrees with this proposal in that there should be no difference in standards between taxi and private hire services. No evidence is provided to demonstrate that drivers of one service are safer than the other; so the argument has little weight. If a single tier system was introduced, this would not be an issue.

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 Council agrees with this proposal. This would be easier to apply and enforce on a single tier.

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 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)*

The Council considers that national safety standards should be based on robust evidence, which could be provided through a competent technical advisory panel.

Provisional proposal 34

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

The Council agrees with this proposal, but considers that it should be extended to private hire services. If a single tier system was introduced, this would not be an issue.

Question 35

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

The Council agrees with this proposal, however there should be a mechanism in place to seek agreement from the Secretary of State to go outside of the statutory limits in exceptional circumstances.

Question 36

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

The Council agrees with this proposal. A single tier system would facilitate consistency on this issue.

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)*

The Council considers that there should be flexibility within any resultant legislation to enable licensing authorities to act jointly within statute and their respective Constitutions. There are already existing powers to facilitate such co-operation under section 101 of the Local Government Act 1972. Co-working barriers would be eased where there was a single tier-system in operation.

Provisional proposal 38

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

The Council considers that there should be flexibility within any resultant legislation to enable licensing authorities to act jointly within statute and their respective Constitutions. There are already existing powers to facilitate such co-operation under section 101 of the Local Government Act 1972. Co-working barriers would be eased where there was a single tier-system in operation.

Provisional proposal 39

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

No comment.

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 comment.

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 Council disagrees with this proposal.

Taxi and private hire services tend to be inherently territorial and are effective at self-policing, including making Enforcement Officers aware of problems. In addition, such a proposal will minimise the ability for Licensing Authorities to have an understanding of relevant activities within their respective areas. The only effective way of monitoring this proposal would be to create a national database of private hire vehicles and drivers.

Even in a single tier system, we would wish to keep local controls.

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 Council agrees with this 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. *(Page 200)*

The Council considers that it should have the ability to set maximum fares for private hire services similar to taxi services. This would promote fairness and consistency. A single tier system would facilitate this matter.

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 introduction of a maximum fare for private hire services would minimise unfairness and inconsistency. A single tier system would facilitate this matter.

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)*

The Council agrees with the second proposal in so much as it would be easier to amend if found necessary post enactment. It is not clear if additional requirements could be introduced by local licensing authorities. A single tier system would facilitate enforcement of this point.

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 Council agrees with this proposal. A single tier system would facilitate consistency on this issue.

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 Council agrees with the second proposal in so much as it would be easier to amend if found necessary post enactment. It is not clear if additional requirements could be introduced by local licensing authorities. A single tier system would facilitate enforcement of this point.

Provisional proposal 48

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

The Council is mindful that taxi drivers can currently operate their vehicles as a private hire service, which has not created any significant issues to its knowledge within the Daventry District. Therefore, it would be logical for the need for Operator licenses to be removed from specific private hire services in the interest of fairness and consistency. As such, a single tier system would facilitate this point.

Question 49

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

The Council considers that the single tier approach would be the only effective approach to this issue. The single tier system may well negate the need to have an 'operator' element as long as the driver and vehicle controls are effective.

Provisional proposal 50

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

The Council agrees with this proposal.

Question 51

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

Please note responses to 48 and 49 above. If the operator system is retained then the 'fit and proper' criteria should also be retained.

Provisional proposal 52

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

Please note responses to 48 and 49 above. If the operator system is retained then services should be allowed to be sub-contracted to a fully licensed operator.

Question 53

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

Please note responses to 48 and 49 above. Such records may well assist enforcement, but the consultation document does outline the burdens included in carrying out the record keeping.

Chapter 17 – Reforming quantity controls

Provisional proposal 54

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

The Council agrees with this proposal, however, although it has worked for Daventry District Council, we are mindful that many licensing authorities consider restrictions to be necessary. A single tier system would facilitate this point.

Question 55

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

The Council found that taxi numbers stabilised in correlation with market forces. National consistency in standards (albeit single or 2-tier) would assist the stabilisation of taxi numbers within licensing authorities.

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)

The Council cannot see any advantages in including transitional measures.

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)*

The Council can see value in having a proportion of its taxi and private hire stock wheelchair accessible (WAVs). The percentage of WAVs and the need for adequate provision at ranks should be determined by local licensing authorities.

Question 58

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

Unless the Government were to provide local licensing authorities with the necessary grants, any such incentives would need to off-set by increasing the fees to non-WAVs. The Council considers that that should be considered by the local licensing authorities.

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 58 above.

Provisional proposal 60

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

The Council agrees with this proposal.

Provisional proposal 61

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

The Council agrees with this in principle, subject to funding being made available.

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)*

The Council agrees with this proposal. This could form part of the national taxi and private hire vehicle standards.

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)*

Robust enforcement by local licensing officers will help to minimise this problem. It is an offence to refuse fares, so in effect if a taxi fails to stop then they are committing an offence which should be dealt with accordingly.

Chapter 19 – Reforming enforcement

Question 64

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

No, due to training, lack of resources and enforcement 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)*

The party with knowledge of the legal status of the vehicle is the driver, not the passenger, and the offence against the passenger should be decriminalised. More emphasis should be put on the training and enforcement of the driver.

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 is neither desirable nor practicable to have these powers, as a small rural authority we do not have the resources or capacity to cope with the additional work this would involve.

Question 67

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

In principle, it is a good idea to deal specifically with offences summarily, quickly concluded. Any such power would have to have specific guidelines for use in different circumstances.

Provisional proposal 68

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

As there is no proposal for a central register of licences, there will be practical difficulties in establishing where a driver is licensed/registered. Additional conditions for taxis can be applied by Councils where there will not be uniform conditions in place. There will be an issue as to one Council's standing to prosecute for another, meaning delegations for each 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)*

As there is no proposal for a central register of licences, there will be practical difficulties establishing where a driver is licensed/registered. Additional conditions for taxis can be applied by Councils where there will not be uniform conditions in place. There will be an issue as to one Council's standing to prosecute for another, meaning delegations for each authority. These issues would be better addressed by a national Enforcement Agency, for example VOSA.

A single tier system would benefit from this type of arrangement as one set of standards across the country would be easier to enforce.

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 position should be left as it stands. Judicial Review is a challenge of how the decision was made, not the actual decision itself. Whereas the appeal against the councils' decision is against the decision made.

If an individual can establish that they have been prejudiced by the decision, why should they not have the right to appeal? Due to costs and litigation this has not been an issue to date.

If there is a different decision and no change in circumstances then there is evident inconsistency in the decision making of the council which makes it difficult for both the council and applicants to gauge how the application will be treated. Additional costs to the Council would be incurred if another process was implemented.

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)*

The Council can see merit if there has been a change in circumstances since the application decision. Otherwise, as the member appeal panel would consider the same policy against the same application, policy and would have the same training, in all probability the decision on Review would be the same as the initial outcome.

Provisional proposal 72

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

The process should remain with the Magistrates Court as it allows the process to be appropriately tested, with respective appeal rights to the Magistrates Court. Further training can be provided to the Magistrates through the Magistrates Court Association. To simplify the process, a single tier system would be appropriate.

Question 73

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

Yes, subject to the Review Process not just being a paper review of the original case, but a hearing de novo, with any new information available, essentially this means that we would want the same process at the initial hearing as the Review and Magistrates Court.

A single tier system would make for a more consistent approach in these matters.

From: Tim Payton [REDACTED]
Sent: 07 September 2012 10:58
To: TPH
Cc: Geoffrey Riesel; Brian Rice; Paice, Malcolm
Subject: LTN (ComCab, Dial-a-Cab and Radio Taxis) response to Consultation on Taxi and Private Hire Services

Attachments: LTN Law Commission response Sept final version 2012.docx; LTN Law Commission cover letter Sept 2012 final.docx

Please find enclosed the London Taxi Network (LTN) response to the Law Commission Consultation into reforming the law of taxi and private hire services.

LTN comprises three of London's largest taxi service operators, ComCab, Dial-a-Cab and Radio Taxis.

Between them, these three taxi circuits fulfil upwards of 20,000 taxi journeys every day for a wide variety of corporate and public sector clients and manage more than 7,000 licensed taxi drivers. These circuits have existed for up to 60 years through a variety of licensing and regulatory changes and benefit from unrivalled management experience in the London taxi industry.

These three organisations are all quite different (see below profile) and we are fierce competitors with each other in the London taxi market. It is noteworthy then that we have come together in complete agreement on almost all aspects of this consultation.

The unifying view that runs through this response is our very strong belief that the London taxi market is the best in the world, with high standards, high degrees of expertise and an unrivalled trust and expectation among the public.

In London all drivers have extensive knowledge, all vehicles are fully accessible and offer safety and convenience to the driver and passenger, and the resulting service is consistently high and sets a high standard that other regions aspire to. LTN believe that this is in no small part a result from high quality regulation from Transport for London, which has been able to shape and improve the taxi service to meet the very challenges and needs that are unique to the Capital. LTN is very keen that this standard is not reduced in a 'race to the bottom' that so often characterises deregulation of taxi services. LTN is firmly of the opinion that the Mayor of London and TfL need to retain control to retain standards.

LTN is also of the opinion that many of the proposals to deregulate private hire services would also result in a retrograde step in London, which only 14 years ago introduced greater licensing regulation for private hire and thus curbed the epidemic of serious crime that so blighted that industry and harmed the travelling public. Again, the Mayor and TfL must be able to retain the controls that have made such an effective 'cleaning up' exercise possible to avoid a return to the previous chaos that engulfed London's streets. It is also important that the licensing of Private Hire reflects the standards of the London Taxi licensing requirement rather than the standards set in the rest of the country.

LTN welcomes the opportunity to respond to this consultation and wishes to maintain a professional and productive working relationship with the Law Commission and looks forward to future discussions on the subject ahead of the publication of any final proposals.

Yours Faithfully

Mr Malcolm Paice
General Manager, ComCab

Mr Brian Rice
Chairman, Dial-a-Cab

Mr Geoffrey Riesel,
Chairman Radio Taxis Group

LTN profile:

ComCab was established in 1974 as London Wide Radio Taxis and was originally part of the Licensed Taxi Drivers Association before being acquired by the ComfortDelGro transport group in 1997. Now part of a global transport group, ComCab also has operations in Edinburgh, Aberdeen, Birmingham and Liverpool.

ComCab currently has 2,500 subscribing taxi drivers in London and for over 25 years has served the London Taxicard scheme, providing subsidised transport for people with physical and sensory impairments. In addition ComCab services a wide range of corporate clients across the financial, legal and media sectors and has won awards for its driver training and disability awareness programmes.

Malcolm Paice is the General Manager for ComCab with over 20 years experience in the London taxi industry.

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Brian Rice is the Chairman of Dial-a-Cab, he joined the organisation in 1974 and became Chairman in 1996, he is now the longest serving Chairman in the history of Dial-a-Cab.

Radio Taxis Group was first incorporated in 1953 and started life as a driver society before de-mutualising in 2004. The business currently numbers around 2,500 licensed taxi drivers and fulfils a wide range of clients in the financial and corporate sector, as well as having contracts with local authorities and other public sector clients.

Radio Taxis was the first taxi firm to go 'Carbon Neutral' and has won a number of awards for its environmental credentials.

Geoffrey Riesel has been the Chairman and CEO of Radio Taxis Group since 1993.

TIM PAYTON

[REDACTED]

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

3rd September 2012

Re: Consultation into reforming the law of taxi and private hire services

Dear Sir/Madam,

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These three organisations are all quite different (see below profile) and we are fierce competitors with each other in the London taxi market. It is noteworthy then that we have come together in complete agreement on almost all aspects of this consultation. The unifying view that runs through this response is our very strong belief that the London taxi market is the best in the world, with high standards, high degrees of expertise and an unrivalled trust and expectation among the public.

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London's Taxi Network (LTN), comprising ComCab, Dial-a-Cab and Radio Taxis

Response to the Law Commission Consultation

'Reforming the Law of Taxi and Private Hire Services'

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)

LTN endorses this proposal and is of the view that retaining the distinction between taxis and private hire vehicles is essential to avoid confusion among the travelling public and to protect the reputation and status of the taxi sector in London which the sector (and its regulator) have worked hard to develop over many years. The ability to hail taxis in the street and the use of taxi ranks by drivers and vehicles offering a high standard of service is understood and utilised by the public in an informed manner and altering this is likely to harm the quality and consistency of the service the public receive. Being able to easily distinguish a taxi is a matter of public safety.

REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

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

LTN believes that further and more careful consideration has to be given to London and that it must have specific treatment within the scope of reform, with considerable modifications and/or exemptions needed to cater for the unique characteristics of London and regulatory arrangements already in place.

London has the best licensed taxi industry in the world. The extent of the driver's knowledge and the quality of the fully accessible, purpose built vehicles is unrivalled and the service is admired the world over. This has taken not decades, but hundreds of years to develop and the prestigious history of the trade and the high standard of regulation is clear for all to see. The level of complaints and regulatory issues around the London taxi industry are so low that we believe the Law Commission are right to conclude "if it isn't broken don't fix it".

Transport for London is a competent and unique regulator, which faces challenges not seen anywhere else in the UK. Integrating licensed taxis into the London's personal transport infrastructure is no mean feat and TfL has succeeded in modernising the industry without harming the exceptionally high standard for which it is renowned. The challenges and scale of the personal transport requirements in London just cannot be compared to any other UK City or region.

It is also important to recognise that the standard of Private Hire Licensing cannot be separated from that of Taxis as both sectors co-exist alongside each other and therefore the regulation of private hire in London needs to reflect the Taxi licensing system in London more than the rest of the country.

London's standard in both respects is set higher than any other region, and through legislation and regulations introduced in the last 15 years. It would be a great pity if the new proposals saw London having to lower its standards to those in many parts of the rest of the England and Wales rather than the other territories raising their standard to meet London. LTN believes this would irreparably damage the quality of service enjoyed by Londoners and visitors to the Capital alike by undoing existing regulatory arrangements.

There has never been an upper limit or regulated cap on the number of taxis in London and the regime for managing compliance and overseeing regulation is exceptionally strong and accountable at a local level. As these are the main things that the Law Commission is seeking to introduce we believe the evidence points to exempting London from the main proposals for Taxis and Private Hire.

LTN would refer the Law Commission to the Coalition Government's 'programme for Government' where it set out its key policy programme. It said:

"The Government believes that it is time for a fundamental shift of power from Westminster to people. We will promote decentralisation and democratic engagement, and we will end the era of top-down government by giving new powers to local councils, communities, neighbourhoods and individuals"¹.

We believe the proposals from the Law Commission ignore this principle and also would override the democratic legitimacy of the Private Hire Vehicles (London) Act 1998 and accountability of the Mayor and TfL to set the standards they see fit for London to which they are subject to accountability in regular elections.

We expand on this issue in more detail in specific proposals raised throughout the consultation in the following proposals.

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)

LTN believes that purpose built taxis in many cities, especially London, require certain set conditions of fitness in order to provide a consistent and accessible service to the public. There is a stronger case for private hire vehicles not needing to be restricted to particular types of vehicle, as these must always be pre-booked and so therefore the vehicle type can be selected based on the customers needs (number of seats, level of access etc).

In London, all licensed taxis have been wheelchair accessible since 1995. All London taxis also feature a range of other accessibility aids including hearing aid induction loops, intermediate steps, visibility aids and a tight turning circle, enabling taxis to easily pick up from either side of a road, thus preventing less mobile passengers having to cross the carriageway.

The Disability Discrimination Act (1995) and Equality Act (2010) have been embraced by the London taxi trade and by many other taxi trades across the UK to

¹ http://www.cabinetoffice.gov.uk/sites/default/files/resources/coalition_programme_for_government.pdf

create an accessible and assured service. Taxis in London can stop on the street to pick up anybody who hails them, irrespective of their disability or needs.

Removing the requirement for fully accessible taxis with an adequate turning circle will remove the ability to provide such an assured service and drivers of non-accessible vehicles will have to stop, ascertain the nature of the disability and potentially be forced to discriminate against, and refuse to carry, certain passengers. This would be a discriminatory and backward step.

In addition, the highly distinctive design and appearance of London taxis make hailing a legal, insured and legitimate taxi very easy in London and many other cities. Having a national, blanket standard that allows any vehicle types in any city can only serve to dilute the quality of those vehicles and confuse the public.

Question 4

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

LTN believes that the licensing arrangements for all Taxi and Private Hire Vehicles should be restricted to motor vehicles that require a driving licence.

We are also aware of, and concerned at, the regulatory blackhole that has been created by the growth of 'pedicab' services. It is greatly frustrating to hear both Boris Johnson and TfL say they would like to take action on Pedicabs but are prevented from doing so by primary legislation.

We believe that Pedicabs as presently operating are a clear threat to the safety and well-being of London's public and also hinder the work of those legitimately licensed as taxi drivers. This includes blocking road space and ranking areas and the fact that neither the pedicab vehicles nor drivers have to pass any licensing test on their fitness to operate makes their presence on London's streets unjustifiable.

LTN urges the Law Commission to introduce new licensing arrangements that would allow the Mayor and TfL to choose whether to licence pedicabs through rigorous licensing arrangements or prohibit their operation, including strict penalties for those who break these rules.

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)

LTN supports this proposal and agrees Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire regulations should only cover vehicles adapted to seat eight 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. (Page 166)

LTN supports this proposal. We would also like to see taxis able to offer shared fares as an additional service where buses are not available.

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)

LTN supports this proposal as the current situation lends itself to limousines and other novelty vehicles being inconsistently licensed either as private hire vehicles or public service 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)

LTN agrees with this proposal as it does not think it's necessary to have volunteers and such like, where providing transport is not the most substantial part of the service, covered by private hire licensing. However, there needs to be a clear definition to the exclusion of volunteers to prevent a loophole forming whereby operators and drivers can escape licensing requirements by masquerading as volunteers. As Taxi and Private Hire services are "for profit" enterprises whereas car sharing and the like, only seek to recover the cost of fuel etc; this distinction should be covered in law or guidance.

Question 9

How, if at all, should the regulation of taxis and private hire deal with:
(a) carpooling; and
(b) members clubs? (Page 170)

LTN supports the principles and objectives of carpooling schemes and they are to be encouraged as they reduce road traffic and emissions from vehicles. Just as some people have had privately owned vehicles in London licensed as private hire vehicles in order to avoid the congestion charge, care must be taken to ensure a private hire driver cannot circumvent private hire licensing by masquerading as a car pool service. It is therefore vital to ensure that regulation looks for evidence of genuine carpooling with reciprocal arrangements, genuine commuter activity (home to work, work to home) rather than an ongoing provision of service etc.

Members clubs are less easily defined and so even more care should be taken not to present a loophole by which car and taxi operators/drivers can avoid regulation. LTN understands such clubs to always be non-commercial and restricted to members only, and so regulation should support such restrictions.

In principle, provided legislation is well defined, LTN supports the exclusion of members clubs and car pooling from regulation but would like to review the draft legislation proposed in this area before giving this subject a green light.

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)

LTN supports this proposal and believes flexibility at local level is essential.

Provisional proposal 11

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

LTN believes that wedding car services should no longer be expressly excluded from private hire licensing as they are essentially commercial hire and reward services. The fact they may only service one kind of journey requirement seems irrelevant, as any other taxi or car could also do nothing but wedding work but still remain liable for licensing.

LTN believes there is justification for continuing to exclude funeral services from private hire licensing as (a) the provision of transport is not the primary service and is a necessary requirement to fulfil the rest of the service and (b) in most cases the vehicles cannot be utilised in other types of hire and reward work.

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)

LTN supports making provision for public services to be able to operate long term and scheduled services without the need for licensing, but does not think a simple exemption (based on the '7 days' rule) will be sufficient, which seems to be supported by the original repeal. Re-introducing it would simply open up the same risks of abuse. Scheduled public services will need careful definition to avoid abuse.

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)

LTN strongly supports the proposal to remove the limitation of regulation to just public 'streets'. It agrees with the principle that the public should be equally protected at stations, airports and other privately owned areas, the same as on public highways.

We cite the example of Canary Wharf, a major commercial centre in the Capital where tens of thousands of car and taxi trips take place every week, but is also a region that is privately owned, and in theory could offer less regulatory protection if the owner chose to act outside of current regulation.

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, specific regulatory provision needs to be made for licensed taxi services at airports and major rail stations.

LTN supports proposals to make special regulations covering regulations at airports to ensure competition can thrive and the travelling public are not compelled to use prescribed concessionary services that limit choice and increase the potential for abuse of pricing and service provision.

Most importantly there should always be provision made for easily accessible drop off and ranking by licensed taxi services – at both airports and rail stations.

Given their monopoly position some airport operators and their selected concessionary contractor may be tempted to operate at non-competitive pricing whilst not being compelled to provide a good quality of service.

In terms of pre-booked services, LTN also believes that people using an airport should still be able to retain their right to book onward transport from a provider of their choice and for that provider to have access to the airport to collect that passenger. To restrict such access would be to dangerously limit transport options to and away from 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)*

LTN supports the clarification and improved definition of plying for hire, ranking, hailing and the activities of private hire.

LTN recognises the current lack of definition allows for large scale ‘plying for hire’ and ‘touting’ by private hire vehicles, an issue that places the public at risk and adds to a lack of clear understanding as to the key differences between taxis and private hire vehicles and undermines the higher investment the taxi sector has invested in its drivers and vehicles. We look forward to seeing proposed draft regulations and guidance from the Law Commission to address this.

Provisional proposal 16

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

LTN agrees that use of the technological means of engaging taxi services should not be included in the hailing and ranking definitions.

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)

LTN does not see any benefit from adopting the Scottish approach. LTN has considered the alternative of instead focussing on the privilege of taxis to take ‘on the spot’ hirings, which seems more relevant and appropriate. Whilst this may enable private hire vehicles to benefit from on the spot hirings via smart phone apps etc, provided these mechanisms capture the relevant information to satisfy legislation to qualify as a pre-booked journey, this does not appear to be too problematic.

Provisional proposal 18

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

retained. (Page 182)

LTN fully supports the retention of compellability. This provision strikes a fair balance that reflects the benefit taxi drivers have of being able to rank and ply for hire.

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)

LTN supports the proposal to retain the current approach to ensure private hire vehicles can only be engaged via a pre-booking through a licensed operator.

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)

LTN agrees with the proposal to allow leisure and non-professional use of taxis and private hire vehicles, as it believes a restriction on such use would significantly disadvantage all taxi and private hire drivers and increase their operating costs.

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)

LTN supports the proposal to allow the Secretary of State and Welsh Ministers the power to issue statutory guidance in respect of taxi and private hire licensing requirements. As we set out in our responses to questions 1 and 2, LTN believes that powers should be devolved to the Mayor and TfL to set standards appropriate for London's Taxi and Private Hire Sector and that it is wrong to prescribe set national standards for taxi and private hire standards.

Provisional proposal 22

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

LTN would support the proposal to abandon references to hackney carriages only if very strict regulation surrounding the use of the word 'taxi' were to be introduced. Currently the word 'taxi' is used too freely to describe all private hire and taxi travel, leading to misrepresentations from private hire operators and drivers and confusion among the public.

One of the main reasons 'hackney carriage' is still used is to clearly describe 'taxis' as the word is often misused and misappropriated by private hire.

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. LTN strongly opposes any opportunity for private hire vehicles to be described as 'taxis' under any circumstances. This will be especially important if the phrase 'hackney carriage' is to be abandoned, as it will become crucial to public understanding the very clear definition of taxis and private hire.

To allow private hire to use this word permits the watering down of the higher regulatory standards attained by both taxi drivers and taxi vehicles through the regulatory licensing system.

A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements. (Page 188)

LTN broadly supports the principle of basic national safety standards for taxis and private hire vehicles but does not wish to see these basic safety standards undermine the important need for taxis to be distinctively recognisable from private hire vehicles. It could be argued that the MOT regime is, in effect, a national minimum safety standard for all vehicles. In the case of taxis any standard should be a minimum standard with TfL able to set the conditions it believes are right for London.

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards. (Page 189)

LTN supports the proposal that any taxi safety standards be only minimum standards as it is consistent with our view that the Mayor and TfL should have the ability to set further standards if they deem them appropriate for the London market.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. (Page 189)

LTN supports the introduction of minimum national safety standards for private hire vehicles that are basic mandatory standards for implementation across the country, but we also believe that the Mayor and TfL should have the ability to apply higher standards for London if they so choose.

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)

LTN strongly opposes the proposal to make private hire services subject solely to safety standards. In London specifically this would be a backward step and would see a watering down of the current topographical training that TfL requires.

A combination of de-regulated numbers and lax driver standards could only serve to flood the industry with low skilled, poor quality drivers and have a knock-on detrimental impact on both the taxi industry and the travelling public in London.

Prior to licensing of private hire London suffered from an epidemic of serious crime at the hands of unlicensed drivers and the industry has taken many years to get to the

stage whereby the travelling public can feel reasonably assured. Removal of any other standards would lessen that assurance.

We would remind the Law Commission it is only fourteen years since Parliament created the Private Hire Vehicles (London) Act 1998 that included a requirement for Private Hire drivers to pass a topographical training test. TfL has since introduced a moderate level of topographical training for a number of reasons, including to improve passenger safety and the customer experience. We are not aware of any concern over this issue and oppose any plans to remove the right of TfL to apply a topographical test.

We also remind the Law Commission that a topographical test for private hire drivers is also a safety requirement. A driver who is able to effectively plan their journey and has a basic understanding of where they are going is clearly a safer driver. A driver who takes the most effective route is also more fuel efficient. LTN contends that both of these factors are important public policy considerations that a local authority should have the freedom to decide to address in the licensing standards they set for private hire in their jurisdiction.

We urge the Law Commission to give specific consideration to the unique nature of London and the ecology between taxis and private hire and allow the Mayor and Transport for London to set standards they feel are appropriate to the needs of our City.

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)

As with topographical training, LTN supports retaining the ability for local standard setting in relation to signage and other areas that local authorities may feel are necessary to retain high standards. Again we believe that the Mayor and TfL must have flexibility on this issue and would be concerned that signage is used as a vehicle identifier making less effective the other welcome measures proposed to create a distinction between plying for hire and pre-booking.

Evidence from around the world shows that the more identifiable private hire vehicles are, the more likely they are to be illegally hailed. This can also cause an issue for drivers who correctly reject attempts by the public to get into a private hire vehicle because they recognise it.

Private Hire Services should be allowed and encouraged to use a passenger identifier (sign with name of person being collected) in the window of their vehicle on arrival at the pre-booked destination for their journey. Not only would this provide customer reassurance but it would also help tackle touting as the name of the customer who has been pre-booked would be displayed before contact was made with a member of the public.

Clearly London, with its high density urban environment, means that both illegal and inadvertent (by the public) hailing of private hire is far more prevalent than in suburban and rural areas.

The existing arrangements in London have been reached following consultation and liaison with all key parties and we do not see any need to amend the existing regulatory framework.

Question 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? (Page 191)

As the Law Commission sets out elsewhere, the two services are different and this will lead to different levels of national safety and service levels.

Applying a standard that has to accommodate a wide range of differing social/economic/geographical requirements across the country is contrary to the policy trend for localism and standards being set by the local community to reflect the needs of the local community.

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (Page 192)

LTN believes that the 'on the spot' hailing nature of taxis makes them intrinsically at greater risk than a private hire hiring whereby the hirers information is captured as part of the pre-booking process.

The fact no other party need be aware of a street hiring from a taxi places the driver at additional risk and LTN supports conditions recognising this fact and allowing for greater driver safety requirements in taxis. We do believe that having an ability to map and sign read and basic general topographical standard is an important requirement for taxi and private hire drivers to be safe when transporting passengers, however we would advocate a more stringent test for the taxi driver over the private hire 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)

LTN disagrees with the proposal that 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. There should be appropriate flexibility for the Mayor and TfL (who are granted powers by the Secretary of State) to set standards covering safety and service levels that reflect local requirements.

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)

LTN agrees with the proposal that the powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. We believe all policy decisions should be driven by on-going consultation and dialogue with key stakeholders, which is why we endorse delegating regulatory power setting to the Mayor and TfL.

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)

LTN believes consulting a technical advisory panel, as well as looking at existing standards, is a good approach. The standards applied in London are high and have served the industry well, so looking at the regulatory requirements and standards would seem to be a good benchmark.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. (Page 193)

LTN fully endorses this proposal as there is ample evidence, especially within London, that granting licensing authorities the power to set standards locally allows the public a safer, more accessible service. As we describe in the opening to this section, London has unique circumstances and a widely respected licensing regime. Any new legislation proposed by the Law Commission must be flexible enough to support rather than reduce the scope of London's existing licensing framework for Taxis and Private Hires.

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? (Page 194)

LTN does not believe a statutory limit is necessary and cannot see any tangible benefit in having such limits. This may restrict a local authority's ability to react to changes in marketplace, population or other requirements in future.

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? (Page 194)

LTN supports the concept of allowing licensing authorities the power to impose individual conditions on taxi and private hire drivers or operators. LTN believes that the differing marketplaces across the UK are too diverse to allow for a 'one size fits all' approach and that local requirements change over time and licensing authorities need to be able to impose conditions as they see fit.

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)

LTN believes the current position does allow local authorities to work together wherever desirable and cannot see evidence that formalising such scenarios on a statutory basis would make such efficiencies more common. That said if there is a belief from the licensing authorities that a statutory footing would increase the opportunities for co-operation and efficiencies then the proposal has some merit.

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. (Page 196)

Although this wouldn't affect London, LTN supports this proposal and allowing such combined efforts where local authorities can see benefit in doing so seems sensible.

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. (Page 196)

LTN supports the proposal to allow licensing authorities to amend zones in their region following suitable consultation and engagement with representatives of the licensed taxi industry.

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licenses which may only be used at certain times of day as prescribed by the licensing authority? (Page 197)

In London there is no restriction on licences and we do not advocate any change to this arrangement.

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)

LTN does not support this proposal extending to London. As we explain in detail elsewhere the unique size and requirements of the London market mean TfL and the Mayor need to set specific requirements for the capital city and these would be undermined by this proposal. The size of the London market (larger than Scotland for example) and the fact that there is no limit on the number of drivers would mean that there is adequate supply for PHV drivers to cover the City's requirements.

Provisional proposal 42

We do not propose to introduce a "return to area" requirement in respect of out-of-area drop offs. (Page 199)

LTN agrees with this proposal and that there are no tangible benefits to 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)

LTN supports the proposal to allow retention of the ability by local authorities to regulate taxi fares but not private hire fares. This makes it all the more important to protect the use of the word 'taxi' to ensure the public understand the different customer propositions put before them.

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (Page 200)

LTN believes that taxis should be allowed to charge a fare higher than the metered rate for pre-booked journeys as this will allow for taxis to be more competitive with private hire on pre-booked trips, especially over longer distances.

Currently radio taxi companies offer fixed fares to certain locations that are cheaper than some private hire fixed fares but could have potential to be higher than the metered fare, and LTN members are restricted from being able to offer these competitive prices because of the current legislation.

This change will directly benefit the public and remove what is currently an anti competitive restriction.

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)

LTN believes that driver safety standards could benefit from greater consistency and clearer definition, the ‘fit and proper person’ requirement being a good case in point, as licensing authorities can attach different meanings and weight to the requirement currently.

LTN believes primary legislation may not be flexible enough to deal with changing circumstances and therefore would urge minimum standards to be fixed in primary legislation with flexibility to deal with the issue to be given to the Secretary of State and Welsh Ministers, and in the case of London, authority should be given to the Mayor of London.

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)

LTN supports this proposal as there is no benefit in having the vehicle owner subject to such tests provided the vehicle and driver meet the standards.

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)

LTN agrees national vehicle safety standards, if introduced, be included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions.

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. (Page 206)

LTN fully supports this proposal. We see no benefit to the public if operator licensing is withdrawn.

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? (Page 208)

LTN does not see any benefits to be gained from requiring taxi radio circuits to be licensed operators as per private hire operators.

Most taxi radio circuits across the UK are providing only a small proportion of a taxi driver's daily workload (usually less than 30% of a drivers work) whereas private hire drivers are 100% reliant on licensed operators for all of their work. With all private hire work having to pass via an operator it is vital that the operator serves as a crucial link in the regulation of private hire, where vehicle standards, driver standard and fares are all subject to either low level regulation or no regulation at all.

Taxi circuits are acting solely as agencies in passing working taxi drivers selected trips which they can choose to cover, or not. As the regulation surrounding taxis, especially in London, is robust and covers not only the drivers, vehicles but also the fares, and the drivers are receiving comparatively little of their work from the circuits, there appears to be no great need nor benefit of requiring those circuits to meet the same requirements as private hire operators.

In any case most taxi circuits, LTN included, maintain strong and auditable systems to manage the drivers and vehicles that subscribe to their circuit. Job details are equally well maintained, so it is difficult to see what benefits would be gained from additional bureaucracy. Circuits have existed for almost 60 years with compliance, management and service to the public perfectly well served by the current structure of the circuits.

As taxi drivers are not solely reliant on radio circuits for their workloads, the relationship between driver and the circuit is very different from the relationship between private hire operator and driver, which is closer to that of employer and employee than the agency approach from taxi circuits. To some large extent taxi circuits are only providing 'clearance services' to taxi drivers who are accepting street hailed trips from customers who are paying by credit/debit card, charge cards, and local authority issued concessionary travel cards.

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. (Page 209)

LTN supports this provisional proposal.

Question 51

Should "fit and proper" criteria in respect of operators be retained? (Page 209)

LTN believes the criteria requiring operators to be fit and proper should be retained, but, as with drivers, this should be better defined and more formally explained through guidance.

Provisional proposal 52

Operators should be expressly permitted to sub-contract services. (Page 210)

LTN supports the proposal to allow operators to sub-contract services but clearly this can only be to other licensed operators and this should be a condition of licence for the original operator who takes the primary booking.

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? (Page 210)

LTN does not object to the requirement of a taxi driver keeping limited records of a private pre-booking, although this only really seems justifiable if it is at a pre-

arranged fare, there does not seem to be a good case if the journey is charged at the metered rate.

REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers.
(Page 213)

LTN does not support this proposal (outside of London) as it could clearly lead to a widespread degradation of service that may be nigh on impossible to remedy years later.

It could be argued that businesses such as those operated by the members of LTN would benefit from de-restriction as in some regions the likely increase in driver number and effect on driver earnings may push more drivers to join radio circuits, however LTN members operate on the basis of providing high quality services and the likely outcome of this proposal would be to drive down quality by allowing unlimited numbers of drivers into the market place.

London is already de-restricted, with no cap on numbers, but has a high entry through the quality bar set by its licensing requirements. Even with no restriction on numbers there are still times when supply does not match demand, so it is not a simple equation that de-restriction equals adequate supply all of the time. More likely, the already over populated areas would become more populated, and existing drivers would earn less and certain areas and times would still be under supplied.

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? (Page 213)

LTN believes de-restriction is almost certainly likely to destabilise many regions' taxi industries, and for a sustained period of time, leading to widespread lowering of standards and near uncontrollable expansion. It is hard to envisage an orderly transition due to the very stark differences from one region to another and the sheer number of different regions.

We also envisage that some areas would suffer worse supply, where drivers all flock to neighbouring regions which are deemed to be a 'pot of gold' and de-restriction opens the floodgates to those from neighbouring regions. This is a problem not illustrated by other case studies abroad, as they did not feature so many different licensing regions so close to each other.

The value of existing licences varies wildly, so it's hard to imagine a satisfactory compensation package to those drivers reliant on the revenue from the sale of their licence satisfying all areas. In itself this consideration may not be a good enough reason not to de-restrict numbers, but taken alongside the fact there is no evidence to suggest supply would be immediately resolved in all areas, at all times, this is a high price to pay, especially for those who stand to lose tens of thousands of pounds in addition to seeing their workloads massively diluted. There are instances throughout the world where a deregulation of numbers has caused a flood of entry to the industry ultimately resulting in the bad driving out the good. Good experienced taxi drivers left the profession, in these cases, as they could no longer make a satisfactory livelihood. In these instances this has seriously affected the quality of service to the travelling public.

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)

Were de-restriction to take place (which LTN does not agree it should) then a staggered approach would seem to be essential to avoid widespread and nationwide chaos across hundreds of different regions with very unique issues. However whichever approach were adopted de-restriction would ultimately cause chaos.

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)

LTN does not support the proposal for separate licenses for wheelchair accessible vehicles as this appears to directly contradict the Disability and Equality Act whereby the objective must be to have consistently accessible vehicles across the supply chain.

Many licensing areas require taxis to be wheelchair accessible and this seems by far the most sensible and equal policy to adopt as it provides the travelling public with the certainty when they hail a taxi in the street that it is most likely to meet their needs.

In practice it's hard to see how specially licensed vehicles could 'give priority' to disabled passengers and how that could be measured or enforced. It also gives rise to the scenario whereby more than one disabled person requires a vehicle and the operator must then prioritise one type of disability over another.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? (Page 217)

LTN agrees that in order to drive up the number of available accessible vehicles this proposal is a good suggestion.

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)

LTN believes that all taxis should be accessible, so as to provide a consistently accessible service nationwide and to reinforce the view that taxis are available for immediate on-street hailing by ALL passengers.

Wheelchair accessible vehicles, as with low emissions vehicles, should also attract lower rates of road fund duty. Local authorities should also make more provision for wheelchair accessible taxis and private hire vehicles in public places to aid pick up and set down.

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. (Page 218)

LTN does not believe a quota will have the desired effect and so supports this proposal.

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. (Page 219)

LTN supports this proposal – radio taxi services have long served the Taxicard scheme in London with distinction and would welcome Transport for London making this a standard licensing requirement for drivers.

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)

LTN agrees with this proposal.

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)

LTN's experience is that there is no evidence to suggest widespread problems with London taxi drivers deliberately ignoring disabled passengers. Additional and statutory training would of course help, as will robust enforcement where it can be proved a driver has deliberately discriminated against a person because of their disability.

REFORMING ENFORCEMENT**Question 64**

Should authorised licensing officers have the power to stop licensed vehicles? (Page 222)

LTN believes effective enforcement is essential if standards and the public trust in those standards are going to be sustained at highly valued levels. Therefore LTN supports the proposal to allow authorised licensing officers to have the power to stop licensed 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)

LTN believes that touting undermines the licensing regime and is a considerable nuisance on the streets of many cities in the UK. LTN believes that licensing authorities should be given increased powers to immediately close down operators found to be touting, and to seize vehicles and revoke licenses more easily. The main reason illegal touts operate with perceived impunity and repeatedly offend is because the commercial benefits of touting often outweigh the likely punishment if caught.

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)

LTN believes it would be desirable and practical to impound vehicles breaching licensing rules. There is no reason that impounding vehicles in this way would not be as proven a measure as impounding other unsound or illegal vehicles already works in practice.

Taking non-compliant vehicle off the road immediately solves the problem and sends a strong message to those seeking to circumvent licensing rules.

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how? (Page 225)

LTN believes fixed penalty schemes have their place but should not be used as an alternative for robust licensing rules and proper, robust compliance.

Because of the commercial lure to drivers and operators to breach the rules, penalties all too often prove to be a 'price worth paying' and shift the emphasis away from resolving issues long term, to becoming a revenue stream for the local authority. Indeed the licensing authority may find it preferable to proliferate on penalty charges rather than fix the root cause of the non-compliance or breach of licensing rules.

Therefore LTN would prefer to see proper compliance and enforcement rather than passive issuance of penalty charges.

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. (Page 225)

LTN does not object to this proposal in principle but clearly to be effective this would require very clear guidelines across a diverse range of regions.

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)

LTN supports this proposal and feels some formal procedures for handling cross border non-compliance would be the best approach.

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)

LTN supports this proposal.

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)

LTN supports this proposal based on the appeal containing new reasons as to why the decision relating to the outcome should be reconsidered. An appeals process should not undermine the finding of the breach, only the severity of the punishment/outcome.

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court. (Page 232)

LTN feels an additional layer of a special tribunal would only serve to increase costs and is largely unnecessary and so supports the proposal that appeals should continue to be heard in the magistrates' court.

LTN, September 2012

From: [REDACTED]
Sent: 07 September 2012 11:22
To: TPH
Subject: Changing the law about taxis and minicabs
Colin Holden

Carrick Zone, Cornwall

Hackney plate no. 33 Wheel Chair accessible vehicle.

As a founder member of Abacus taxis 18 years ago, 3 of us hackney owners started working together with 'cb's' and mobile phones, the word Abacus came about as a way of getting to the front of the 'telephone directory' (almost a thing of the past). We quickly found out that there was an amount of business off the phone as in the town there were only 6 private hire vehicles and at the time because of controlled amounts of Hackney plates they were changing hands for £30,000 peaking at £50,000 in the year 2000, since then the trade (that is Hackney trade) has been in decline, owners now wishing to leave the trade cannot get £25,000 for their investment.

At the outset of Abacus 90% of the business came from rank work, the company has grown over the years but not hackney as only 10% now comes from ranks. Abacus along with other hackney businesses also has private hire vehicles of which there are now in excess of 40.

The rank work is disappearing due to mobile phones, Internet bookings, bus passes for the over 60's, the trains now running every 30 mins instead of hourly and the town council in the last 2 years has started an around the town at £1 a day hop on hop off bus, all very good for the general public but obviously the business comes from somewhere and that's mostly from taxis and private hire.

Personally I have jointly with my son and a 3rd driver a wheelchair accessible vehicle working 20+ hours a day, these hours are essential to cover the 5 yr £480 monthly repayments, this is only sustainable with controlled amounts of hackneys. With a free for all as your reports imply automatically the private hire would instantly become hackneys in this area as our council runs the same spec for private hire and hackneys and with more vehicles plating up to work Friday and Saturday nights for beer money in total ruining the trade of the career drivers, incomes would fall, quality of vehicles would fall, drivers would be working longer hours to make their money and or claiming benefits, in my opinion one cap fits all cannot work successfully. As such controls should stay with local councils, as we have in Cornwall and have quarterly forums with hackney and private hire owners, local councillors, Police and Highways.

Cornwall as a county is split into 6 zones 3 regulated zones and 3 unregulated, which gives an easy picture of the advantages of regulated over deregulated, to list them all would sound derogatory and biased but most are glaringly obvious, so unless you would prefer a part time social benefits society, controlled amounts should stay and be left in the control of local councils.

Colin Holden

[REDACTED]

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