

Licensing Committee

**Grand Jury Room, Town Hall
8 August 2012 at 6.00pm**

The Licensing Committee deals with policy issues relating to licensing matters and applications and appeals concerning hackney carriage and private hire vehicles and drivers and other appeals.

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services.

Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to meetings, with the exception of Standards Committee meetings. If you wish to speak at a meeting or wish to find out more, please pick up the leaflet called "Have Your Say" at Council offices and at www.colchester.gov.uk

Private Sessions

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**COLCHESTER BOROUGH COUNCIL
LICENSING COMMITTEE
8 August 2012 at 6:00pm**

Members

Chairman : Councillor Nick Cope.
Deputy Chairman : Councillor Julia Havis.
Councillors Mary Blandon, Margaret Fairley-Crowe,
Dave Harris, Pauline Hazell, Mike Hogg, Brian Jarvis,
Margaret Kimberley, Michael Lilley and Colin Mudie.

Substitute Members :

Agenda - Part A
(open to the public including the media)

Members of the public may wish to note that Agenda items 1 to 5 are normally brief.

Pages

1. Welcome and Announcements

(a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.

(b) At the Chairman's discretion, to announce information on:

- action in the event of an emergency;
- mobile phones switched off or to silent;
- location of toilets;
- introduction of members of the meeting.

2. Substitutions

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

3. Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

4. Have Your Say!

(a) The Chairman to invite members of the public to indicate if they wish to speak or present a petition at this meeting – either on an item

on the agenda or on a general matter not on this agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

(b) The Chairman to invite contributions from members of the public who wish to Have Your Say! on a general matter not on this agenda.

5. Declarations of Interest

The Chairman to invite Councillors to declare individually any personal interests they may have in the items on the agenda.

If the personal interest arises because of a Councillor's membership of or position of control or management on:

- any body to which the Councillor has been appointed or nominated by the Council; or
- another public body

then the interest need only be declared if the Councillor intends to speak on that item.

If a Councillor declares a personal interest they must also consider whether they have a prejudicial interest. If they have a prejudicial interest they must leave the room for that item.

If a Councillor wishes to make representations on an item on which they have a prejudicial interest they may do so if members of the public are allowed to make representations. In such circumstances a Councillor must leave the room immediately once they have finished speaking.

An interest is considered to be prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the Councillor's judgement of the public interest.

Councillors should consult paragraph 7 of the Meetings General Procedure Rules for further guidance.

6. Minutes

1 - 2

To confirm as a correct record the minutes of the meetings held on 30 May and 6 June 2012.

7. Consultation on Taxi Reform

3 - 38

See report by the Head of Environmental & Protective Services.

8. Update on the Changes to the Licensing Act 2003

To receive an oral report by the Licensing and Enforcement Manager.

9. Exclusion of the public

In accordance with Section 100A(4) of the Local Government Act 1972 and in accordance with The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended) to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

LICENSING COMMITTEE

30 May 2012

Present:- Councillor Cope (Chairman)
Councillors Hazell and Lilley

3. Minutes

The minutes of the meeting held on 17 April 2012 were confirmed as a correct record.

The Committee resolved under Section 100A of the Local Government Act 1972 to exclude the public from the meeting for the following items as it involved the likely disclosure of exempt information as defined in paragraph 1 of Schedule 12A to the Local Government Act 1972

4. Hackney Carriage/Private Hire Drivers Appeal

The Committee considered a report by the Head of Environmental and Protective Services concerning a Hackney Carriage/Private Hire driver's appeal against the Licensing and Enforcement Manager's decision to immediately suspend their dual Hackney Carriage/Private Hire Driver's Licence under provision of section 61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976. Acting under delegated authority, the Licensing and Enforcement Manager had taken the decision to suspend the appellant's licence with immediate effect, in the interests of public safety following serious concerns raised by Essex Police about the appellant's suitability to hold such a licence.

The Licensing Committee was asked to consider the appeal by the Hackney Carriage/Private Hire Driver and assess the matter on the basis of the evidence before it, and take into account representations from Essex Police and the appellant, and determine whether it considered the appellant to be a 'fit and proper person' to hold such a licence. The Licensing and Enforcement Manager presented their case followed by Essex Police. The appellant and their supporter then presented their case and then all parties withdrew for the Committee to consider the matter and make its determination.

RESOLVED that, having heard the evidence presented, the Committee determined to dismiss the appeal and uphold the decision of the Licensing and Enforcement Manager to suspend the appellant's Hackney Carriage/Private Hire Driver's Licence pending further investigation by officers of the Licensing Authority. These investigations were to be carried out as quickly as possible and the matter to be brought back before the Licensing Committee for determination.

LICENSING COMMITTEE

6 June 2012

Present:- Councillor Hogg (Chairman)
Councillors Blandon and Harris

5. Appointment of Chairman

RESOLVED that Councillor Hogg be appointed Chairman.

6. Minutes

The minutes of the meetings held on 23 May 2012 were confirmed as a correct record.

The Committee resolved under Section 100A of the Local Government Act 1972 to exclude the public from the meeting for the following items as it involved the likely disclosure of exempt information as defined in paragraph 1 of Schedule 12A to the Local Government Act 1972.

7. Hackney Carriage/Private Hire Drivers Appeal

The Committee considered a report by the Head of Environmental and Protective Services concerning a Hackney Carriage/Private Hire driver's appeal against the automatic suspension of his hackney carriage/private hire driver's licence following the accumulation of more than 12 penalty points on his licence. The Licensing and Enforcement Manager and the appellant attended, presented their cases and then withdrew for the Committee to consider the matter and make its determination.

RESOLVED that having heard the evidence presented and carefully considered the points made, the Committee determined to dismiss the appeal and uphold the suspension of Hackney Carriage/Private Hire Driver's Licence under Section 61(1) (b) of the Local Government (Miscellaneous Provisions) Act 1976. The decision was made on the grounds that the appellant had failed to comply with the Council's Hackney Carriage/Private Hire Drivers' Penalty Point Scheme and that the breaches of the scheme were so serious as to pose a potential threat to the safety of the travelling public.



Licensing Committee

Item
7

8 August 2012

Report of	Head of Environmental and Protective Services	Author	Gary O'Shea ☎ 506956
Title	Consultation – Reforming the Law on Taxi and Private Hire Services		
Wards affected	All Wards affected		

This report is to advise members of the government consultation on the proposed reformation of the law with regard to Taxi and Private Hire licensing and seeks to agree the Licensing Authority response to the consultation.

1. Decision(s) Required

- 1.1 Members are requested to agree the draft consultation response and to permit it to be submitted as the formal response to the consultation by this authority.

2. Supporting Information

- 2.1 The law in relation to Taxi and Private Hire licensing is very fragmented and complex and dates back as far as 1831, with the main Hackney Carriage legislation being the Town Police Clauses Act 1847 and in relation to Private Hire (and Hackney Carriages) the Local Government (Miscellaneous Provisions) Act 1976.

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- 2.2 Many differences in the approach to the licensing of drivers, vehicles and (in the case of private hire) operators exist nationally.
- 2.3 Most legislation refers widely to taxis as 'Hackney Carriages' and these are licensed to carry out three modes of hiring, namely pre-booking, hailing and ranking. Private hire vehicles may only take pre-booked fares. Any person that engages in any of the three activities without a licence is committing a criminal offence.
- 2.4 As may be expected with legislation as dated as that of taxi and private hire technology has overtaken many of the provisions particularly with the advent of mobile phones and the internet.
- 2.5 Modification and clarification of laws is long overdue and the government are proposing a number of changes by way of a total overhaul of licensing provisions. It is anticipated that a Bill will be put before parliament in November 2013, which will represent a totally new licensing regime.

3. The Consultation Document

- 3.1 The consultation consists of the consultation document itself and an impact assessment that run to 253 and 32 pages respectively. These have been e-mailed to each member of the Licensing Committee for reference purposes and a hard copy has been provided in the Members' room.

- 3.2 A summary of the main points in the consultation has been attached as appendix **A**.
- 3.3 The proposals should not generally impact on residents of the Borough although given that the intention of government is to allow for some degree of deregulation, some of the proposals may give rise to concern over public safety and as such the response of this authority needs to reflect any concerns in this area.
- 3.4 There are 73 consultation questions. Suggested responses to the consultation have been attached as appendix **B**. The questions are available for viewing in the consultation document that has been provided.
- 3.5 The consultation closes on 10 September 2012

4. Community Safety Implications

- 4.1 The main purpose of licensing is the protection of the public and careful consideration has been given to this above all else in the drafting of the suggested responses to the consultation questions.
- 4.2 Generally the relationship with both the taxi and private hire trades in Colchester is very good with the licensing authority and the trade working together to ensure a safe and enjoyable customer experience. It is therefore important that any change in the law should enable some degree of local autonomy that will allow specific local issues to be considered for the benefit of both trade and public alike.

5 Conclusion

- 5.1 The legislation needs to be updated and therefore this is a worthwhile and meaningful consultation. The setting of national standards is particularly welcome as this will remedy many of the local differences in the approach to taxi and private hire licensing.
- 5.2 Members are requested to agree the response to the consultation (as attached at appendix B) with any alterations or additions as considered necessary or appropriate and to resolve that this be submitted as the official response of this authority.

Background Papers

None



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**.

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).

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)

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.

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. Sub-contracting 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. And 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

- 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.

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)*

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)*

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 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)*

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)*

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)*

Provisional proposal 11

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

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)*

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)*

Provisional proposal 16

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

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)

A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

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

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)*

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)*

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)*

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 206)*

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 209)*

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)*

REFORMING QUANTITY CONTROLS

Provisional proposal 54

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

Question 55

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

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)*

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)*

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)*

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)*

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)

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)

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).

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)

We agree.

Provisional proposal 2

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

We agree

Provisional proposal 3

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

We agree. It is considered essential that all types of vehicle used for hire or reward with the services of a driver should be included in the legislation thus ensuring that they cannot simply 'turn up' with no licensing restrictions. However, this authority does not believe that this should mean that there is an obligation to license such vehicles if local conditions dictate that there is a danger to the public or similar type of concern in doing so e.g. the licensing of Rickshaws and Pedicabs on busy roads

Question 4

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

Non motorised vehicles also carry passengers for hire and reward and this authority considers that it is essential that any such vehicles and drivers that are permitted are vetted in the same way as any other licensed driver. This authority would advocate legislation to cover such matters as vehicle safety, driver suitability, vehicle and third party insurance and public liability insurance. As above stated Pedicabs and Horse drawn carriages are too slow in busy city or town environments and often driven by somebody with little or no experience we would strongly request therefore the ability to set local policy on the acceptance or otherwise of such vehicles and where (if licensed) they should be permitted to travel. Limousines and Novelty vehicles already fall within our Licensing policy and this authority fully agrees that the law in relation to such vehicles should be tightened and clarified.

Provisional proposal 5

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

We agree, this is the current position and works well.

Provisional proposal 6

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

We agree.

Provisional proposal 7

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

We agree. As above stated clarification on Limousines in particular would be welcome, particularly as many such vehicles are converted or extended and contain 'J seats' which can be dangerous in an accident. Limousines are often used to carry more than 8 passengers; however, when licensing as private hire vehicles they will currently always be restricted to 8. There are at present a number of unlicensed vehicles on the roads and of those that are licensed there are two methods of doing so, which creates confusion and difficulty with regard to enforcement.

Provisional proposal 8

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

We agree.

Question 9

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

(a) Carpooling; and

(b) Members clubs? (Page 170)

a) We agree that carpooling should be exempt unless the scheme is profit motivated. This authority agrees that an appropriate measure of profitability would be HMR&C mileage rates, which allows a measure of payment towards wear and tear as well as fuel costs.

b) this is more of a grey area as even if e.g. the vehicles carry only lady passengers they may still be operating as Taxi's or private hire vehicles and the fact that they are for members would therefore not be mitigate the use of the vehicle for profit. This authority agrees however, that certain members clubs could be exempt and would suggest that the HMR&C mileage rates would again be a good measure. In this regard however, an excessive use of any such vehicle even if not for profit may put unusual wear and tear on the vehicle and as such this authority harbours some concern over the suitability and mechanical standards of such vehicles where, if falling outside of a licensing regime, they will be subject to only an annual MOT

Provisional proposal 10

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

We agree.

Provisional proposal 11

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

We disagree with this view. The current arrangement works well and this authority is not aware of any concerns, including with regard to the fitness of drivers despite the fact that they are not CRB checked. It may be worthwhile defining the use of a wedding car i.e. all associated journeys connected with the wedding on the day of booking or just home to church, church to reception etc. There are a variety of such cars both modern and vintage and whilst it is important to ensure vehicle safety the wear and tear on these vehicles is not excessive due to infrequency of use (compared to taxi and private hire) and relatively low speed driving. Therefore, safety is adequately covered with a standard MOT test.

Question 12

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

Yes. National standards should include the presentation of relevant contracts between the PH Operator and the customer. The use of a "discreet plate", perhaps the size of an excise duty disc, in the front and rear windows of the vehicle would assist in identification of such vehicles.

Provisional proposal 13

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

We agree that regulation should not be limited to just streets, the need for vehicle and driver suitability and safety remains necessary no matter where the vehicle is used.

Question 14

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

Yes, in order to maintain the competition element and to ensure a ‘fair playing field’ between Taxi and private hire vehicles. Perhaps shuttle buses to an off site pick up point where pre booked PH vehicles could be met would assist with Airport security and parking issues.. Provision would also have to be made for a HC rank, again to maintain competition and fairness to the Trade.

Provisional proposal 15

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

(a) references to ranking and hailing;

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

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

We agree. There are currently a number of grey areas in respect to plying for hire e.g. a private hire vehicle with driver parked down a side street, is he plying or merely waiting for a booking to come through? Therefore the non exhaustive list of factors would be especially useful. The distinction not only between the two modes of transport but also in the differences in the way that they must operate could be more clearly defined.

Provisional proposal 16

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

Agreed, however, it remains important that operators should log bookings at time of booking and prior to the passenger being conveyed to ensure that there are no loopholes enabling a private hire vehicle effectively to ply for hire.

Question 17

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

This authority does not believe that such a change is necessary. The public are generally aware of how Taxis function in that they can be hailed or found at a taxi rank. The Scottish definition appears more confusing and raises more questions than answers e.g. what is a public place? Public education of how Private Hire works and the consequences of their misuse would be more beneficial.

Provisional proposal 18

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

We agree. This authority views compellability as an essential tool in ensuring a safe and efficient public service.

Provisional proposal 19

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

We agree.

Provisional proposal 20

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

We do see the reason for this amendment as whilst it would enable e.g. a wife or husband to use the vehicle for shopping without need to be a licensed driver the practicalities of enforcement are made more difficult and the question is raised as to how a driver of the vehicle would prove that they were not ‘working’. We can therefore see this as creating a grey area in relation to enforcement and raising more concerns than it solves.

Provisional proposal 21

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

We agree. This authority sees guidance as being essential in ensuring uniformity on a national basis.

Provisional proposal 22

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

We agree. The term Hackney Carriage is outdated and not really understood by the general public

Question 23

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

No. It would add to existing confusion between the two modes of transport and at present it helps to keep a distinction between the two services. It could be argued that the majority of the public refer to private hire vehicles as “minicabs” and this authority believe that it would be beneficial to adopt this as a generic term for private hire.

Provisional proposal 24

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

We agree

Provisional proposal 25

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

We agree.

Provisional proposal 26

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

We agree.

Provisional proposal 27

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

We disagree. Private Hire Drivers should be professional and have sufficient knowledge of the area that they will predominantly work. They should not be reliant on a Controller (who may well have less knowledge than themselves) or a satellite navigation device. A knowledge test can comprise of many subjects, the Council's conditions, the Highway Code, Places of interest for example. It does not have to predominantly be a test of road names and their whereabouts in the Borough. Equally the public should be confident that the driver will take them effectively and efficiently to their destination and by use of the quickest route thus ensuring that the cost is maintained at the minimum level for the journey.

Question 28

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

Yes, local standards should be set regarding signage. It is worth considering some kind of mandatory standard wording such as "Pre booked only" or "Not pre booked-Not insured". This may assist in helping to educate the public in respect of the difference between private hire and hackney carriages.

Question 29

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

Given that the standards will apply to vehicles, this authority does not see how there can be obstacles to uniformity of standards across the two licensed vehicle types. The same safety standards will apply to any vehicle and if these are a minimum requirement then there can be no 'mismatch'. Further, we see the setting of uniform minimum standards as an essential public safety tool.

Question 30

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

No. Given that public safety is the main goal, conditions should be consistent.

Provisional proposal 31

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

Safety standards are the most important; however, other factors need to be taken into account. Whilst theoretically the Secretary of State conditions could extend only to matters of safety, if it is determined that this is to be so, this authority would request consideration be made to the ability for local Councils to set local conditions on other matters e.g. vehicle design *(which can have an impact on passenger comfort), signage etc.

Provisional proposal 32

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

We agree.

Question 33

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

As this is the first comprehensive attempt at reviewing the current legislation for very many years, any consultation undertaken should be wide sweeping and inclusive of all relevant parties. A technical advisory panel could prove invaluable in defining standards; however, we would advocate that this should be comprised of a wide cross section of stakeholders to include trade, trade bodies, licensing authorities, other relevant authorities etc.

Provisional proposal 34

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

We agree.

Question 35

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

Whilst there should be clearly defined national standards, this authority believes that local knowledge is an important tool in licensing matters and we would advocate some degree of autonomy.

Question 36

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

Yes

Question 37

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

This authority believes that cooperation is best left to local arrangements. Informal co operation and resource management county wide is already in place. We already participate in a quarterly policy and technical forum with authorities across the County and maintain informal contact outside of this arrangement. We believe therefore that such legislation is not required.

Provisional proposal 38

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

The option to do so would be considered as a positive step in maintaining uniformity of standards. However, given the differences of operation of various authorities and the need to take account of specific local conditions, this authority believes that this should not be mandatory.

Provisional proposal 39

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

Whilst we do not anticipate an immediate need to introduce zones in this Borough, we accept that this may not always be the position and acknowledge that there are areas in other Boroughs where zoning is beneficial. This authority agrees therefore with this proposal.

Question 40

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

No. It would be very difficult to enforce and in the current economic situation drivers have to work longer hours, running into the evening, in order to just make a living.

Provisional proposal 41

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

This authority accepts that cross border hiring has become an increasingly common occurrence and in theory do not object to removal of restrictions and freedom in relation to locality of bookings. However, we do believe that the vehicle operator and driver should still be licensed by the same authority to ensure that standards are uniform in relation to how the vehicle operates. We see the enforcement aspect of separate licensing regimes as becoming very difficult as a situation could arise where action needs to be taken against an operator and a driver for a particular breach of condition/offence where these may be licensed by different authorities.

Provisional proposal 42

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

It is difficult to see an operator from one area giving preference of work to a vehicle from another and we find it difficult to understand any need for a non return policy. Whilst, if cross border hiring is to be permitted, there are no practical reasons as to why a vehicle should have to return we see this as a temptation to ‘ply for hire’ and a potential unnecessary burden on enforcement. On balance therefore, we would advocate that a ‘return to area’ requirement should be installed into any new legislation.

Provisional proposal 43

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

We agree. A maximum tariff for a Taxi is essential to avoid irregular pricing. It would be totally impractical to allow each taxi operator to set their own fares as this would give rise to a scenario where a person using a rank vehicle with regularity will be subject to a lottery in relation to the fare that they pay. The same journey could differ in price dependant on which vehicle they use.

Question 44

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

No. The fares are already calculated to take account of various costs and overheads in addition to the profit element.

Question 45

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

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 203)

It should be set out in primary legislation so as to avoid misinterpretation.

Provisional proposal 46

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

This is the position under the current legislation and we see no reason for any change. Notwithstanding this, the majority of vehicle owners are also licensed drivers and in this regard they will undertake a fit and proper assessment in an case.

Question 47

Should national vehicle safety standards be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions? (Page 205)

They should be set out in primary legislation so as to avoid misinterpretation.

Provisional proposal 48

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

We agree.

Question 49

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

No this is not considered necessary.

Provisional proposal 50

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

We agree.

Question 51

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

Yes we see this as essential and would advocate extending a fit and proper test to control staff as such persons are in contact with specific information relating to passengers.

Provisional proposal 52

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

We agree provided there is provision for accurate records.

Question 53

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

Yes. This does not have to be too onerous. Details could be kept in a diary, for example.

Provisional proposal 54

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

This authority believes that Taxi numbers should remain limited. A lifting of the restriction is likely to bring many more taxis onto the circuit. We believe that this carries safety implications given that there is limited rank space and this could cause queuing and encourage illegal parking. In addition we see the increase in competition as being likely to encourage drivers to cut corners in safety. We further believe that this is borne out by the evidence of those authorities that delimited a few years ago only to subsequently re-limit, an indication that delimitation does not work in all cases.

Question 55

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

By far the biggest problem would be the lack of rank space. The current move to make some town centres pedestrian only is adding to this problem, moving ranks to lesser used areas and invariably cutting rank space even further. Ranks on private land, such as railway stations, are usually well oversubscribed already and cannot therefore be expanded. Some of the taxi trade are likely to be rebellious due to losing what they see as "their money" in the loss of premium. It is anticipated that many established drivers, who were able to from a financial viewpoint, would leave the trade. This would quite possibly result in the demise of self regulation and would increase enforcement of the ranks and drivers. Too many drivers and too little work invariably leads to rule bending in an effort to earn a living.

Question 56

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

Yes, most definitely.

Question 57

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

(1) a duty on the licensee to give priority to disabled passengers; and

(2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. (Page 217)

We do not believe it necessary for a separate category. The vehicle conditions currently employed enable adequate provision in this regard.

Question 58

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

No. Licence fees must be set on a cost recovery basis the cost of licensing accessible vehicles is the same as that for any other vehicle, therefore we fail to see how this could be lawful unless there was a change in the law to allow fees to be set otherwise than on cost recovery alone.

Question 59

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

New vehicle licenses issued following an unmet demand survey or following delimitation could be for wheelchair accessible vehicles only. From experience, this has had the effect of establishing a mixed fleet with a reasonably high percentage of wheelchair accessible vehicles sufficient for any need. Drivers of these vehicles could be required to attend a Passenger Assistance Training certificate or a BTEC certificate. These courses not only include training in securing wheelchairs and the handling of same; they also include training in dealing with people with less obvious disabilities such as autism etc.

Provisional proposal 60

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

We agree.

Provisional proposal 61

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

We agree.

Provisional proposal 62

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

We agree

Question 63

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

It may help to introduce an obligation to stop, although a driver may argue that he “forgot” to turn his taxi light off when, say, he was on his way to a pre booking. These circumstances are notoriously hard to prove. A very high penalty for failing to stop may assist but the burden of proof still remains very difficult.

Question 64

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

This would be a very useful power and would allow more directed enforcement.

Question 65

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

The ability to stop a vehicle after a touting incident had been observed and the vehicle had begun moving and the immediate revocation of drivers licence in proven cases.

Question 66

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

It would be desirable although probably impractical for storage reasons. The ability to remove plates and suspend licences already exists and a continuation of the ability to do this would provide a reasonable alternative.

Question 67

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

Yes. FPN's are a very effective tool and can be used for a variety of offences and condition breaches as well as for matters such as smoking in a licensed vehicle. The power to stop a vehicle would be invaluable in this respect.

Provisional proposal 68

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

Yes. If such vehicles are to operate in our Borough then the power should exist to enforce against them when necessary to do so. We foresee some difficulty should conditions differ too much between authorities, however, national standards will assist in this.

Question 69

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

Yes, however it will be essential that a detailed licensing policy is in place and a formal process adopted and followed. Any decision should be made in cooperation with the home authority.

Provisional proposal 70

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

We agree.

Provisional proposal 71

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

We agree.

Provisional proposal 72

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

We agree.

Question 73

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

Yes. Uncertainty in interpretation of the law is often only clarified by stated cases and clearly such clarification can only come from the higher Courts.

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