

**Notice of meeting of
Gambling, Licensing & Regulatory Committee**

To: Councillors Boyce (Chair), Doughty, Gillies (Vice-Chair),
Gunnell, Horton, Jeffries, King, Looker, McIlveen, Orrell,
Reid, Richardson, Semlyen, Taylor and Watt

Date: Wednesday, 25 July 2012

Time: 4.00 pm

Venue: The Guildhall

AGENDA

- 1. Declarations of Interest**
At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.
- 2. Minutes** (Pages 3 - 6)
To approve and sign the minutes of the meeting held on 25 April 2012.
- 3. Public Participation**
At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Committee's remit can do so. The deadline for registering is **5:00 pm on Tuesday 24th July 2012.**
- 4. Law Commission Consultation - Reforming the Law of Taxi and Private Hire Services.** (Pages 7 - 50)
This report advises members of a recent consultation from the Law Commission regarding proposals to reform the law relating to taxi and private hire services. It seeks members' approval regarding the council's response to the consultation.

5. Any other business which the Chair considers urgent under the Local Government Act 1972

Democracy Officer:

Name: Laura Bootland

Contact Details:

- Telephone – (01904) 552062
- E-mail – laura.bootland@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting Laura Bootland

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

About City of York Council Meetings

Would you like to speak at this meeting?

If you would, you will need to:

- register by contacting the Democracy Officer (whose name and contact details can be found on the agenda for the meeting) **no later than 5.00 pm** on the last working day before the meeting;
- ensure that what you want to say speak relates to an item of business on the agenda or an issue which the committee has power to consider (speak to the Democracy Officer for advice on this);
- find out about the rules for public speaking from the Democracy Officer.

A leaflet on public participation is available on the Council's website or from Democratic Services by telephoning York (01904) 551088

Further information about what's being discussed at this meeting

All the reports which Members will be considering are available for viewing online on the Council's website. Alternatively, copies of individual reports or the full agenda are available from Democratic Services. Contact the Democracy Officer whose name and contact details are given on the agenda for the meeting. **Please note a small charge may be made for full copies of the agenda requested to cover administration costs.**

Access Arrangements

We will make every effort to make the meeting accessible to you. The meeting will usually be held in a wheelchair accessible venue with an induction hearing loop. We can provide the agenda or reports in large print, electronically (computer disk or by email), in Braille or on audio tape. Some formats will take longer than others so please give as much notice as possible (at least 48 hours for Braille or audio tape).

If you have any further access requirements such as parking close-by or a sign language interpreter then please let us know. Contact the Democracy Officer whose name and contact details are given on the order of business for the meeting.

Every effort will also be made to make information available in another language, either by providing translated information or an

interpreter providing sufficient advance notice is given. Telephone York (01904) 551550 for this service.

যদি যথেষ্ট আগে থেকে জানানো হয় তাহলে অন্য কোন অর্ধাতে তথ্য জানানোর জন্য সব ধরণের চেষ্টা করা হবে, এর জন্য দরকার হলে তথ্য অনুবাদ করে দেয়া হবে অথবা একজন দোভাষী সরবরাহ করা হবে। টেলিফোন নম্বর (01904) 551 550।

Yeteri kadar önceden haber verilmesi koşuluyla, bilgilerin terümesini hazırlatmak ya da bir tercüman bulmak için mümkün olan herşey yapılacaktır. Tel: (01904) 551 550

我們竭力使提供的資訊備有不同語言版本，在有充足時間提前通知的情況下會安排筆譯或口譯服務。電話 (01904) 551 550。

اگر مناسب وقت سے اطلاع دی جاتی ہے تو ہم معلومات کا ترجمہ میا کرنے کی پوری کوشش کریں گے۔ ٹیلی فون (01904) 551 550

Informacja może być dostępna w tłumaczeniu, jeśli dostaniemy zapotrzebowanie z wystarczającym wyprzedzeniem. Tel: (01904) 551 550

Holding the Cabinet to Account

The majority of councillors are not appointed to the Cabinet (39 out of 47). Any 3 non-Cabinet councillors can 'call-in' an item of business from a published Cabinet (or Cabinet Member Decision Session) agenda. The Cabinet will still discuss the 'called in' business on the published date and will set out its views for consideration by a specially convened Scrutiny Management Committee (SMC). That SMC meeting will then make its recommendations to the next scheduled Cabinet meeting in the following week, where a final decision on the 'called-in' business will be made.

Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

Who Gets Agenda and Reports for our Meetings?

- Councillors get copies of all agenda and reports for the committees to which they are appointed by the Council;
- Relevant Council Officers get copies of relevant agenda and reports for the committees which they report to;
- Public libraries get copies of **all** public agenda/reports.

City of York Council

Committee Minutes

MEETING	GAMBLING, LICENSING & REGULATORY COMMITTEE
DATE	25 APRIL 2012
PRESENT	COUNCILLORS BOYCE (CHAIR), CRISP, DOUGHTY, GILLIES (VICE-CHAIR), JEFFRIES, KING, ORRELL, RICHES, SEMLYEN, RICHARDSON AND TAYLOR
APOLOGIES	COUNCILLORS HYMAN, LOOKER, MERRETT AND WISEMAN

22. DECLARATIONS OF INTEREST

At this point Members were asked to declare any personal or prejudicial interests they may have in the business on the agenda. None were declared.

23. MINUTES

RESOLVED: That the minutes of the Gambling, Licensing and Regulatory Committee held on 19 December 2011 be approved and signed by the Chair as a correct record.

Members were informed that, following the meeting, the applicants had appealed against the additional condition that had been imposed by the Committee. Having consulted with the Chair and the Vice-Chair, it had been agreed that, although it had been imposed in good faith, there was insufficient evidence to sustain the condition and this matter had not therefore been pursued in the Courts.

24. PUBLIC PARTICIPATION

It was reported that there had been thirteen registrations to speak under the Council's Public Participation Scheme. The speakers were taxi drivers, including the Chairman of the Independent Taxi Association and the Secretary of the Private Hire Association. The speakers raised concerns regarding the Revised Taxi Licensing Policy (agenda item 4). The concerns raised included:

- The financial climate in which the taxi drivers were operating and the costs of fuel. Details were given of the impact that the fall in trade was having on drivers' livelihoods. The issuing of further taxi licenses would make the situation worse and could increase unemployment in the city.
- The survey had stated that there was no unmet demand in the city yet the Council was continuing to issue new licenses.
- Opposition to the proposal that only Euro 4 petrol vehicle class and Euro 5 diesel vehicle class would be accepted for new private hire applications and all replacement vehicles.
- Some of the vehicles in the vehicle list were too expensive.
- Any introduction of such a scheme should be phased in gradually.
- The impact on air quality was far higher in respect of buses. Taxis did not have a significant impact on air quality. Traffic light sequencing needed to be reviewed because it was a factor.
- Attention was drawn to the situation nationally, including best practice guidelines. The Government would be issuing a major document on issues in respect of taxis and this should be awaited before decisions were taken locally.
- There had been a lack of consultation with the taxi trade prior to the implementation of the policy. Drivers urged the Committee to instigate proper consultation.
- Consideration should be given to introducing incentives to encourage the purchase of more environmentally friendly vehicles.
- Problems arose in repairing and maintaining the Euro 4 and Euro 5 vehicles.
- It was possible to remove the filters on the vehicles which negated the environmental benefits.
- Electric vehicles were impractical because they could not be used for longer journeys, for example airport runs.
- Wheelchair accessible taxis did not meet the needs of all passengers with mobility difficulties.
- At a time when a Fairness Commission was in place the Council was not acting fairly to taxi drivers and the situation in which they found themselves. The Council should have a duty of care to existing drivers and be

mindful of the impact of the recession – it was not fair to issue further licenses.

The Chair thanked the registered speakers for their comments.

25. REVISED TAXI LICENSING POLICY

Members considered a report that sought their approval to amend the Taxi Licensing Policy to permit officers to update the list of approved vehicle types for which new hackney carriage vehicle licenses would be issued.

Members considered the options outlined in paragraphs 7-12 of the report.

Referring to comments raised under the Public Participation item on the agenda, Members sought clarification as to the situation nationally. Officers confirmed that the Law Commission was looking at the legislation in respect of taxi licensing but information had not yet been received.

Clarification was sought as to the consultation that had taken place with the taxi trade prior to the introduction of the policy. Details were given of the scrutiny review that had taken place on the Taxi Licensing Policy, during which the taxi associations had been consulted. The policy had resulted from the scrutiny review. Whilst some Members expressed their support for the policy and the measures that were proposed to encourage vehicles with lower emissions, other Members suggested that, in view of the issues that had been raised during the meeting, more consideration needed to be given to this matter. They were concerned that there had been no further consultation prior to the policy's introduction. Members also suggested that consideration should be given to a more staged introduction, particularly in the current economic climate.

RESOLVED: (i) That officers be requested to carry out further consultation with the taxi trade regarding the policy, including issues in respect of vehicle emissions and the granting of licenses.

- (ii) That, following the consultation, a further report be presented to the Committee for consideration.

REASON: To enable further consideration to be given to the policy in the light of issues raised during the meeting.

Councillor Boyce, Chair

[The meeting started at 5.00 pm and finished at 6.20 pm].



Gambling, Licensing & Regulatory Committee 25 July 2012

Report from the Assistant Director – Housing and Public Protection

Reforming the Law of Taxi and Private Hire Services

Summary

1. This report advises members of a recent consultation from the Law Commission regarding proposals to reform the law relating to taxi and private hire services. It seeks members approval regarding the councils response to the consultation.

Background

2. In July 2011, the Law Commission agreed to undertake a law reform project on the law of taxi and private hire vehicles. The project was proposed by the Department of Transport. A consultation document has been produced which reviews the law and makes provisional proposals for reform. A full copy of the consultation documents can be found at <http://lawcommission.justice.gov.uk/consultations/1804.htm>, a summary is attached at Annex 1.
3. The law on taxi (hackney carriages) 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 vehicles legislation was not introduced until 1976 in response to growth in the unlicensed trade, and many regard it as hastily constructed and ill thought out.
4. Both taxi and private hire services are highly regulated. Safety is a key justification for the licensing system as a whole yet there are no national minimum safety standards for drivers and vehicles.
5. The main changes that might follow the Law Commissions provisional proposals include:

- a) National minimum safety standards for both taxi and private hire vehicles.
- b) Changes to standard-setting: additional local standards, above the national standards, would continue to apply for taxis. However private hire vehicles, only the national standards would apply and there would be no scope for additional local standards.
- c) It would be easier for private hire services to operate on a national basis.
- d) London would be regulated under the same flexible framework as the rest of England and Wales.
- e) Licensing authorities could no longer limit the number of taxi licences.
- f) More enforcement powers for licensing officers against out-of-borough vehicles and drivers.
- g) Disability awareness training for drivers.
- h) Introduction of a statutory definition of “plying for hire”.
- i) Weddings and funeral cars would no longer be exempted through primary legislation.
- j) Allowing leisure use of taxi and private hire vehicles.
- k) Bringing more vehicles within the licensing system, but giving the Secretary of State power to make exclusions, and to set separate standards, in respect of different categories of vehicles.
- l) Clearer exclusions for volunteers and other services where transport is not the main service provided.
- m) Powers for government to issue binding statutory guidance to create greater consistency in how taxi and private hire legislation is applied.

Consultation

- 6. The Law Commission has consulted a wide range of persons and organisations. The council has not undertaken a local consultation, although officers have made sure that Hackney Carriage and Private Hire Association are aware of this consultation along with Environmental Protection Officers and North Yorkshire Police.

Options

- 7. The provisional proposals and questions along with officers responses are attached at Annex 2.

8. Option 1 - Agree with the officer responses.
9. Option 2 - Amend officers responses.

Analysis

10. Officers are in broad agreement with regards to a number of the proposals, however a number of points need further consultation with licensing authorities.

Council Priorities

11. Reforming the law of taxi and private hire services supports the council priority of 'Get York Moving'.

Implications

12.

(a) **Financial**

Any financial implications relating to this proposed reform are not know at this time.

(b) **Human Resources (HR)**

There are no HR implications.

(c) **Equalities**

The reform of the law promotes wheelchair accessible vehicles and disability awareness training for drivers.

(d) **Legal**

There are no legal implications.

(e) **Crime and Disorder**

There are no crime and disorder implications.

(f) **Information Technology (IT)**

There are no IT implications.

(g) **Property**

There are no property implications.

(h) **Other**

There are no other implications.

Risk Management

13. There are no known risks associated with this report.

Recommendations

14. Members are asked to approve option 1 and instruct officers to submit the response to the Law Commission.

Reason: To enable to Council to provide a response to the Law Commission consultation.

Contact Details

Author:	Chief Officer Responsible for the report:		
Lesley Cooke Licensing Manager 01904 551515	Steve Waddington Assistant Director – Housing and Community Safety		
	Report Approved	√	Date 13/07/12
Specialist Implications Officer(s) Head of Legal & Democratic Services Ext: 1004			
Wards Affected:		All	√
For further information please contact the author of the report			

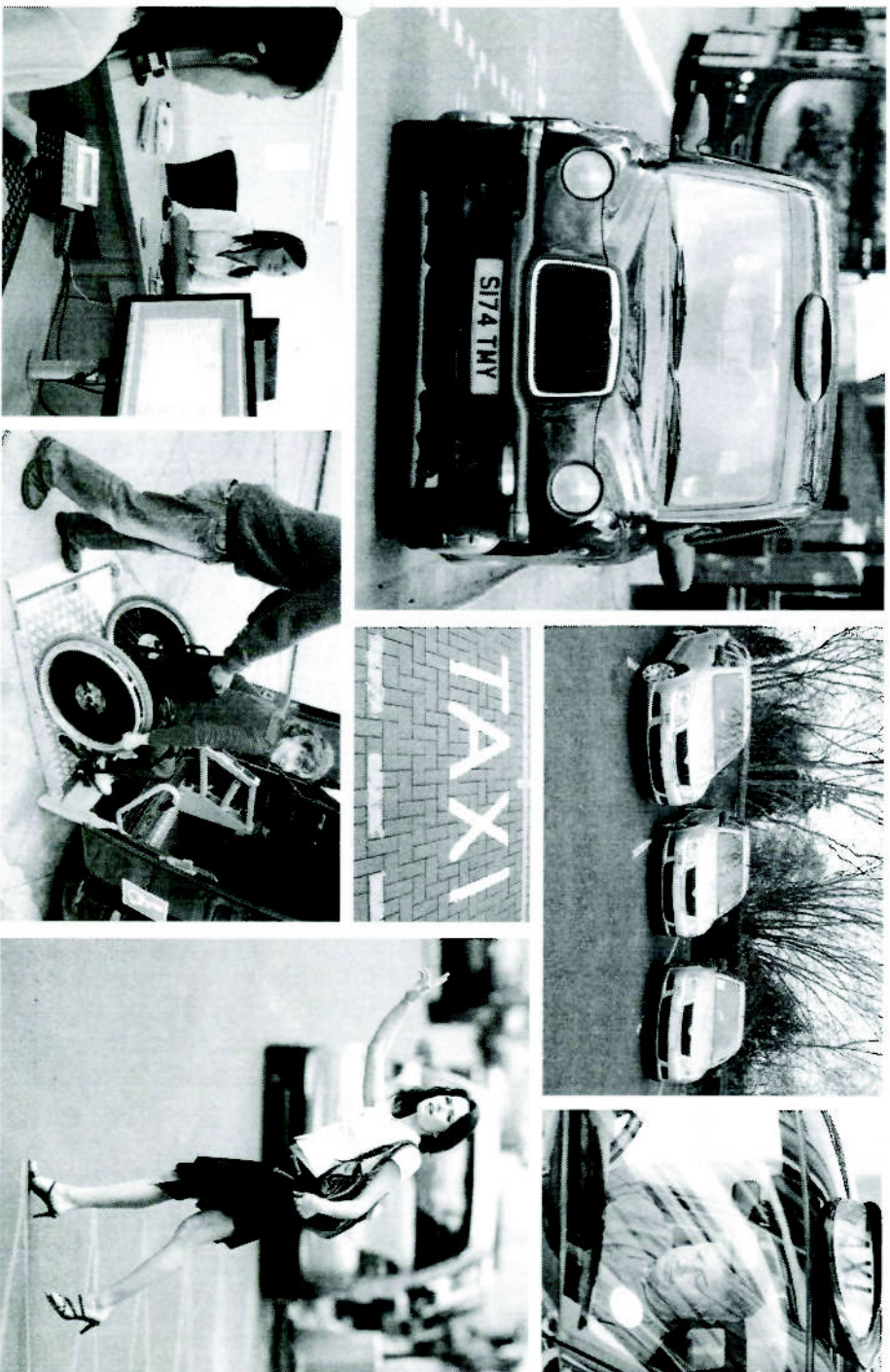
Annexes

- Annex 1** – Summary on the Law Commissions consultation paper
Annex 2 – Provisional proposals and questions with officer responses



**Law
Commission**
Reforming the law

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. Consultants 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).

This page is intentionally left blank

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)

As one of the proposals of the consultation document is to stop licensing authorities from limiting the number of taxi licences and introducing national standards we believe a simpler system would be to introduce a one tier system. A one tier system would make administration and enforcement easier for licensing authorities, and there would no longer be any confusion for the general public who currently do not understand the difference between a taxi (hackney carriage) and private hire vehicle.

However the current 2 tier system provides customers with a choice of operator for private hire vehicles, where taxis limit customers to take the one at the head of the rank or hailed in the street.

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

We agree, why should London be treated differently to any other city or town.

We do not believe that 'appropriate modifications' should be needed for London, any new law should apply fairly for every authority area. Licensing authority always compare their conditions, standards, etc to London, why should this be the case.

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, as long as 'driver licences' can be conditioned accordingly making it very clear what type of vehicle they are licensed to drive/operate, for example they can only operate a pedicab or horse drawn carriage.

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

We do not believe there would be any advantages. Pedicabs and horse drawn carriages are still carrying passengers and safety requirements still need to be regulated.

Within our authority area we control the routes that horse drawn carriages can take so that all routes are safe and do not cause a major impact on the public highway.

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. Public services vehicles are currently regulated by other legislation.

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 use of the term 'stage coaches' should be removed from legislation as it is out dated. A clear definition of a public service vehicle is required.

A public service vehicle should be defined as a vehicle that carries 9 or more passengers, if the vehicle carries 8 or fewer passengers the vehicle should be defined as a taxi or private hire vehicle. All types of vehicles should be licensed accordingly.

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. There is currently no 'fit and proper' test for drivers of such vehicle, as these vehicles carry passengers, some of which can be children and vulnerable people, the fit and proper test should be in place for drivers of any 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)

We agree, this needs to be simplified and assist where transport is for community use or as part of another service.

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

(a) carpooling; and

(b) members clubs? (Page 170)

Taxi and private hire regulations should not deal with these areas. Carpooling is not a commercial activity and encourages sharing vehicles.

Services exclusively for women should be encouraged as they provide confidence in both female passengers and drivers, however they would have to be licensed as private hire operators, vehicles and drivers.

Provisional proposal 10 - The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. (Page 171)

We agree, as long as any exclusions only relate to different standards for different vehicles types. Different standards should not relate to different licensing authority areas.

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

We agree that wedding and funeral vehicles carrying passengers should have the same safety standards as taxi and private hire vehicles and that drivers of such vehicles should pass a 'fit and proper' test. However special provisions should be put in place with regards to these vehicles especially in relation to vehicle age as a lot of wedding cars are vintage and these types of vehicles will not want to display identification plates, signage, etc.

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

We do not believe there would be any merit in doing this.

In some areas there may be a duplication in providing documentation to the licensing authority and the body with whom the contract is made, however as this documentation is provided on the grounds of public safety we believe this exemption should not be in place.

Within our authority when school contract works is awarded to help prevent the duplication of documentation the licensing authority works with the education authority to provide information regarding when vehicles were last inspected and when CRBs were carried out on drivers.

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, the definition of a street should include any place if there is free access to members of the public.

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 have an airport within our authority area, however we agree.

We 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)**

We agree, however it would need to be a very clear definition, so that it will be much easier for licensing authority to take legal action against operators who are acting illegally.

Under the current law licensing authorities find it very hard to take a case against someone they believe is illegally 'plying for hire', the only way this is done with any great success is if test purchasing takes place, however this is very costly and time consuming.

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

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"? (Page 182)

We have no issues with the adopting the Scottish approach.

With regards to the comments may in point 14.79 on page 182, even if a customer uses a Smartphone app to make a booking for a private hire vehicle the booking will still go through an operator who will dispatch a vehicle.

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

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)

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 not agree. We believe the current arrangement where a taxi or private hire vehicle can only be driven by a licensed driver should remain. Changing this would lead to major enforcement issues for licensing authorities. We also believe that this would lead to confusion for the taxi trade.

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.

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 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 they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion? (Page 186)

No, if the 2 tier system remains in place and references to ‘hackney carriages’ are removed private hire vehicles should not be able to use terms such as ‘taxi’ or ‘cab’ on their vehicles. This will cause further confusion for the public who know they can hail a vehicle with the word ‘taxi’ displayed.

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

We agree that this would hopefully create better standards across licensing authority areas, we are aware that due to the high standards expected by our authority in relation to licensed private hire vehicles has lead to drivers getting vehicles licensed as hackney carriages in neighbouring authority areas who have lower standards, these drivers and vehicles then come into our area to work for private hire companies.

This will also prevent operators going to authority areas where standards are low for licences even though they have no intention of operating in that area.

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

We believe that any national standards would need to be set at an adequate level and not just at a very basic minimum standard that some licensing authorities currently have in place.

A clear definition of 'fit and proper person' should be included in any national standards for drivers, proprietors and operators.

Further consultation should be carried out on this with regards to what standards licensing authorities currently request.

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

As long as these standards are set at an adequate (high) level in relation to safety we would have no issues with this. Further consultation should be carried out with licensing authorities regarding their current standards.

We also believe that these standards should include vehicle age and Euro emission 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 do not agree. We believe topographical knowledge is a safety standard and customers expect / need to know that drivers know routes and that they will be taken the correct / shortest route for the journey they require.

We are aware that private hire vehicles could be expected to do a journey which takes them outside of their district and they will not have the knowledge of another authority area, however drivers should make this clear to customers when taking a booking.

As our authority area is visited by several million tourists each year the private hire trade are used greatly as part of the transport system, they need the knowledge of the authority area to do this safely and effectively.

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, licensing authorities should definitely have local standard for side plates and vehicle identification plates.

Without knowing what will be include in a national standard it is very difficult to identify what standards should be set at a local level. National safety standards must be set at an adequate level and further consultation should be carried out with licensing authorities regarding their current standards.

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

Some licensing authorities currently have low standards as they do not have adequate staffing provisions to administer and enforce. Setting higher standards in these authority areas could potential cause problems for already understaffed licensing teams who may find it difficult to make sure that national standards are operated by their taxi trade.

Currently licensing authorities has issues with operators going to other authority areas who have lower standards, if national standards are introduced we could have operators going to other areas because their licence fees are lower. A statutory licence application fee, that includes provision for enforcement, should be introduced.

Question 30 - Should national conditions in respect of driver safety be different for taxi services compared with private hire services? (Page 192)

No, there should be no difference whether it is a taxi service or private hire service, drivers must complete a topographical knowledge test and this must be included in any national safety conditions.

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 agree.

The Secretary of State should provide guidance to licensing authorities with regards to setting any other conditions.

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 fully agree.

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

A full consultation should be carried out with licensing authorities to find out what their current standards are.

We are unsure what is meant by a 'technical advisory panel', is this panel already in place and who is involved?

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.

As stated in proposal 31, guidance should be in place with regards to setting conditions.

We also believe that licensing authorities should retain powers to set standards locally for private hire operators/vehicles/drivers, if the national standards are not set at an adequate level.

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

Statutory limits may not be required, however clear guidance should be in place, if licensing authorities choose to go against any guidance issued they would have to clearly justify why.

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

Yes, with clear guidance in place licensing authorities should be able to impose conditions tailored to that authorities 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)

It is best to leave this at local level arrangements.

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

We agree. However currently we have issues with neighbouring authorities who have standards that are set much lower than our own.

Provisional proposal 39 - Licensing authorities should have the option to create, or remove, taxi zones within their area. (Page 196)

We do not have taxi zones within our authority area, however we agree with this proposal.

Other local authority areas which have combined to create one large authority have found zoning very useful. Some recently created unitary authorities which have removed zones, at the same time as removing quantity restrictions, have found that a zone area that at one time had approx 70 taxis now has over 1200 as taxis from the other quieter zones have all relocated into the area they believe to be busiest.

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)

If quantity restrictions are still in place it would be useful for licensing authorities to have the power to issue peak time licences, for example licences that restrict the time they can be used between 22:00 hours and 06:00 hours.

If quantity restrictions are not in place we cannot see why an operator would want a licence for peak times only. However, granting peak time only licences would be effective for limiting the amount of taxis during the day in an effort to control daytime congestion on the city centre streets and taxi ranks.

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 disagree. With regards to enforcement it is much easier for all 3 licences to be issued by the same licensing authority.

If our licensing authority issued licences to a driver and vehicle and they work for an operator licensed and working out of Birmingham, how are we going to be able to take enforcement action against the operator if we believe they are acting unlawfully.

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

As long as private hire drivers are only doing work given to them by their operator this should not be an issue.

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.

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

Only if the fare is agreed with the passenger at the time of booking.

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)

They should be set out in primary legislation, with the provision for the Secretary of State to introduce additional conditions if required.

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

We disagree, even though the owner does not come into contact with the customer they do have influence over the driver and how the vehicles is used. They would not require the same ‘fit and proper’ test as a licensed driver, for example they would not need to pass a medical. However, vehicle owners should still be of good character and licensing authorities should be able to take criminal convictions into account, especially convictions for serious road traffic offences and construction and use offences.

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, with the provision for the Secretary of State to introduce additional conditions if required.

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)

Yes, this would aid with enforcement as records will need to be kept of all bookings.

Within our authority area taxis that operator out of the train station use a radio circuit for taking pre booked work, however currently no records have to be kept of any bookings taken, therefore if complaints are received enforcement officers cannot find out the details of the driver or vehicle that took the customer.

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, this should be clearly defined in legislation.

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

We agree.

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

Yes, records of pre-bookings should be kept and the requirement to produce to the licensing authority on request should be in place.

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

This authority currently restricts the number of taxis and we have a waiting list of 196 people wanting taxi licences. We undertake an unmet demand survey every 3 years and the results of the survey are taken into account when determining if any additional taxi licences need to be granted.

We currently have 183 taxis licensed to operate, if we no longer restricted the number this would more than double just by people on the waiting list, the city's ranks would not be able to cope with the number of vehicle.

However we also have a number of issues by restricting the numbers, taxi licences change hands for large amounts of money, licence holders rent out their licensed vehicle which is a great expense to the driver each week, and over the last 2 years we have had to deal with 4 licences holders in relation to vehicle ownership. We have found that some licence holders rent out their licences and have given this authority details of vehicles that they do not own, the vehicles were actually owned by the driver.

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

Dependant on how this was done the first big problem would be the number of applications submitted to the licensing authority for licences. Within our authority area everyone on the waiting list would apply for a licence plus a number of licensed drivers who currently rent a licensed taxi each week. The city's ranks would not be able to cope with the number of taxis. There would be greater congestion on the city's roads and air quality within the city from emissions would be greatly affected.

Question 56 - Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed? (Page 215)

Yes.

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)

If licensing authorities are no longer allowed to restrict the number of taxis it will have to be made very clear what type of vehicles will be licensed as taxis. Due to the cost of wheelchair accessible vehicles no operator will choose to put on that type of vehicle unless a licence stipulates that it has to be wheelchair accessible.

Within our authority area a number of years ago we restricted the number of taxi licences to 120, overtime this has been increased to 183 with the restriction that all new licences would only be issued to wheelchair accessible vehicles.

Question 58 - Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? (Page 217)

This could be an incentive for operators to purchase this type of vehicle. However, offering lower licence fees for vehicles meeting certain accessibility standards would increase licence fees for vehicles that do not meet this standard. Not all licence holders would be able to afford the initial cost of purchasing an accessible vehicle, preferring instead to pay a higher licence fee. In addition, the level of licence fees would still need to offset the cost of administrating the licensing function.

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 would have to be a licence condition that vehicles have to be wheelchair accessible.

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

Quotas would not be required if new taxi licences are only issued to wheelchair accessible vehicles.

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

We agree.

Within our licensing authority all new applicants for a driver's licence must complete an on-line disability awareness test as part of the licensing procedure. In addition, holders of both hackney carriage and private hire drivers' licences who drive a wheelchair accessible vehicle must complete the on-line disability awareness test and must also pass the Driving Standards Agency wheelchair assessment.

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, however this should be about all aspects of the service not just discrimination. Due to the layout of some vehicles it could be difficult to display this type of information, for example in saloon type vehicles.

Question 63 - What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? (Page 220)

This could assist, however not all vehicles are equipped to carry disabled passengers, for example a saloon vehicle may not be able to carry a wheelchair user. This would be difficult to enforce, 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.

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

Yes if it is safe to do so.

Question 65 - What more could be done to address touting? Touting refers to the offence "in a public place, to solicit persons to hire vehicles to carry them as passengers". (Page 223)

This is not an issue within our authority area. If it did become a problem more enforcement action would be required.

As stated it is difficult for licensing authorities to take legal action therefore clearer legislation is required regarding this offence.

Question 66 - Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? (Page 223)

This is not desirable or practicable. There would be large cost implications, where would the vehicles be stored and licensing authorities could be legally challenged.

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

Yes, fixed penalty schemes should be in place for breach of licence conditions.

We also believe the fixed penalty scheme should include some road traffic offences such as using a mobile phone or private hire drivers not wearing a seatbelt when they are not carrying passengers.

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, currently we have out of town licensed hackney carriage vehicles operating within our area as private hire vehicles and we have no powers to take enforcement action against them.

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. Information and evidence should be provided to the relevant licensing authority regarding their licensed vehicle and driver for them to take the relevant action.

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)

Within our authority area officers have delegated authority, therefore we offer everyone the opportunity to appeal an officer decision to our committee in the first instance before appealing to Magistrates Court. We believe the legislation should reflect this.

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, this is a useful tool when required for both licensing authorities and the taxi trade.

This page is intentionally left blank