

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.