

# LICENSING COMMITTEE

29 JULY 2014

## REPORT OF CORPORATE DIRECTOR (PUBLIC EXPERIENCE)

### A.3 OUTCOME OF THE LAW COMMISSION REVIEW IN RESPECT OF THE FUTURE OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER, VEHICLE AND OPERATOR LICENSING IN ENGLAND AND WALES

(Report prepared by Simon Harvey)

#### PART 1 – KEY INFORMATION

##### **PURPOSE OF THE REPORT**

To inform and update the Licensing Committee on the outcome of the Law Commission Review on the future of Hackney Carriage and Private Hire Licensing in England and Wales

##### **EXECUTIVE SUMMARY**

The Law Commission commenced work on an independent review on the future of Taxi and Private Hire licensing in the summer of 2011, as part of the Commission's eleventh Programme of law reform. The project had originally been proposed by the Department for Transport, which has overarching policy responsibility in this area.

The Commission published a consultation paper with its provisional proposals for reform on 10 May 2012 and invited responses to their proposals between May and October of that year. It was also assisted by discussions with experts in the field, including an advisory group and an expert legal panel on "plying for hire".

In the spring of 2013 it published the responses it had received and an interim statement in setting out their key policy conclusions in advance of the final report. The Law Commission published its final report with their recommendations and draft Bill to central government on the 23 May 2014.

The Commission received over 3000 responses to its consultation, the highest ever number of responses to a Law Commission consultation.

The existing legislation, which outside of London is primarily the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 and which sets out and controls the licensing requirements and regime for Hackney Carriage and Private Hire Driver, Vehicle and Operator licensing will substantially remain in force until such time as any new or replacement is introduced by central government through the draft Bill that has been submitted by the Law Commission following its review of Taxi and Private Hire licensing in England and Wales.

Any fundamental new or replacement legislation is now not likely to be considered or introduced until sometime after the period of the next general election in May 2015. New legislation will also include and apply to taxi and private hire services in London and Plymouth which at the moment are subject to different legislation than is applied to the rest of England and Wales.

## **RECOMMENDATION(S)**

That the Licensing Committee notes the content of this report and the Law Commission's Review on the future of Hackney Carriage and Private Hire Vehicle Licensing in England and Wales.

## **PART 2 – IMPLICATIONS OF THE DECISION**

### **DELIVERING PRIORITIES**

The Corporate Priorities that may ultimately be impacted upon by the proposals and recommendations contained in the Law Commissions Review on the future of Taxi and Private Hire licensing in England and Wales are:

#### **Our Prosperity**

- **Build a thriving local tourism industry.**
- **Promote sustainable economic growth.**

#### **Our People**

- **Remain a low crime area and reduce the fear of crime.**

### **FINANCE, OTHER RESOURCES AND RISK**

#### **Finance and other resources**

There are no current financial issues or implications in respect of the Law Commissions Review or for this report.

#### **Risk**

There are no current risk management issues or implications in respect of the Law Commissions Review or for this report.

### **LEGAL**

There are no current legal issues or implications in respect of the Law Commissions Review or for this report.

### **OTHER IMPLICATIONS**

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Consultation/Public Engagement.

#### **CRIME AND DISORDER**

There are no current crime and disorder issues or implications in respect of the Law Commissions Review or for this report.

#### **EQUALITY AND DIVERSITY**

There are no current equality and diversity issues or implications in respect of the Law Commissions Review or for this report.

#### **AREA/WARDS AFFECTED**

All

#### **CONSULTATION**

There are no current consultation issues or implications in respect of the Law Commissions Review or for this report. Any futures consultations on this matter would be carried out by either the Law Commission or more likely by central Government through the Department for Transport.

## PART 3 – SUPPORTING INFORMATION

### CURRENT POSITION

The key recommendations and proposals that have come out of the Law Commissions final Review on the future of Taxi and Private Hire Driver, Vehicle and Operator licensing are as follows:

1. New single legal framework for the regulation of taxi and private hire services across England and Wales, including London and Plymouth.
2. Retain the current two-tier system, distinguishing between taxis and private hire vehicles. Only taxis should still be allowed to be hailed or pick up passengers from ranks (i.e. private hire vehicles retain pre-booked status only).
3. The Law Commissions view is that the two tier structure promotes consumer choice and the provision of a wide range of services. The Commission believes that the different ways in which taxis and private hire vehicles are engaged make different levels of regulation appropriate and that a single system would lead to either over or under-regulation.
4. Introduction of national standards for all taxis and private hire vehicles set by the Secretary of State, with the power for local licensing authorities to set additional standards for taxi services only.
5. National standards should be limited to defined purposes, namely public safety, accessibility, matters relevant to the enforcement of the legislation and environmental protection.
6. In respect of private hire services, national standards should entirely replace locally-set conditions.
7. In respect of taxi services, by contrast, it recommends that national standards should be capable of being supplemented at local level.
8. Local authorities to remain responsible for issuing licences and enforcement in relation to both taxis and private hire vehicles.
9. Breach of National Standards will be a criminal offence.
10. Fixed penalty notice for breach of National Standards.
11. Procedure for statutory appeals should be standardised across England and Wales (including London) for all forms of licence and irrespective of whether the decision challenged is a refusal of an application for a licence, a suspension or a revocation.
12. Recommends that applicants should be able to require the Licensing Authority to reconsider its original decision, the second stage in the statutory appeal process being an appeal to the magistrates' court, with a further right of appeal to the Crown Court.
13. Recommends that local taxi conditions should be amenable to a streamlined judicial review procedure in the County Court.
14. Retain the current system of leaving setting of taxi fares to the discretion of the

local authority.

15. Easier for providers of private hire services to work cross-border. I.e. that operator/dispatchers should no longer be restricted to working only with drivers and vehicles whose licences are issued by the same licensing authority as the operator/dispatcher and that operators/dispatchers should have the ability to sub-contract bookings to any other licensed operator/dispatcher in England and Wales.
16. Uniform licence fee for private hire services to discourage applicants (who would now be subject to the same requirements across England and Wales) applying to an authority for purely financial reasons.
17. Taxi licensing fees to continue to be set locally, but at a level which is not lower than nationally set private hire fee.
18. Licensing Officers to be given new enforcement powers to deal with vehicles and drivers licensed in different areas (that are working in their area).
19. Recommend tougher penalties on touting (actively soliciting customers), including impounding vehicles where the driver or accomplice is caught or suspecting of touting.
20. Enhance licensing officers' powers, including granting them powers to stop a licensed vehicle on a road, without the need for a police officer to be present
21. Pedicabs and novelty vehicles (such as decommissioned fire engines), including stretch limousines, are examples of vehicles and transport services that the Law Commission Review recommends should all be brought clearly within the scope of taxi and private hire regulation, so that that they may be controlled as necessary.
22. Retain the current licensing exemption that applies to wedding and funeral cars as part of any new primary legislation.
23. Maintain quantity controls in respect of taxis.
24. Recommends that licensing authorities should retain the right to limit the number of taxis working in their licensing area subject to a statutory public interest test and decisions to restrict taxi numbers should be reviewed at least every three years and be subject to local consultation prescribed in regulations made by the Secretary of State.
25. Introduction of mandatory disability awareness training for all taxi and private hire drivers (new and existing drivers).
26. Among the measures designed to improve the accessibility of services for disabled people, review recommends that licensing authorities should have the power to introduce a duty on taxis to stop when hailed, to help address any problems of certain drivers passing by disabled people.
27. Recommends that licensing authorities should be required to review accessibility needs in their area every three years, and take accessibility issues into account when installing taxi ranks.
28. To help address the lack of wheelchair accessible vehicles, the Law Commission

Review recommends that the Secretary of State should have the power to require large operators (or dispatchers, as they would be referred under the proposed reforms) to meet certain quotas of wheelchair accessible vehicles which must be available to them (i.e. the operator/dispatcher).

29. Lighter-touch and more flexible regulatory regime for private hire services may benefit an industry which the review suggests is more susceptible to the standard raising effect of competitive forces than the taxi trade.
30. Regulatory intervention can only be justified if it promotes one or more of four defined purposes; namely public safety, accessibility, enforcement of the legislation and environmental protection. (For example this would mean that standards relating to more peripheral issues, such as vehicle types and colours, could only be imposed locally in respect of taxi services).
31. Recommends a change in the law to enable the providers of taxi and private hire services to use vehicles with the capacity to carry up to 16 passengers in particular circumstances under their existing licence. (The review believes that this would provide more flexibility for operators to use larger vehicles where it suits their business model without the additional burden of having to obtain a separate public service vehicle operator licence).
32. This is only a summary of the main proposals and recommendations made in the Law Commissions Review and the full details and the entire scope of the changes proposed under the review are shown in the complete summary produced by the Law Commission itself and which is attached to this report as **APPENDIX 1**.

However in addition to this and somewhat surprisingly given that the Law Commission has been working on this review for two years and has comprehensively consulted widely on it, the Department for Transport (DfT) carried out their own separate consultation in March of this year with Local Authorities and other interested parties and stakeholders and before the publication of the Law Commissions proposal and recommendations regarding the future of Taxi and Private Hire licensing in England and Wales.

The main proposals that the DfT sought views on are shown below as follows:

**(i) Allowing private hire operators to sub-contract bookings to operators licensed in a different district. This change will improve operators' ability to meet passengers' needs. And it will help to make the passenger's experience so much more convenient.**

**(ii) Allowing anyone with an ordinary driver's licence to drive a private hire vehicle when it is "off-duty". The principal benefit of this measure is that a PHV could be used as a family car, freeing up many families from the need to run a second car and saving them money.**

**(iii) Making the standard duration for all taxi and PHV driver licences three years; and five years for all PHV operator licences. Shorter durations will only be granted on a case by case basis, where it is justifiable for a particular reason. This will reduce the financial and administrative burden of having to make more frequent licence renewals.**

**(iv) Finally, we want to consider the case for Government involvement in the licence**

**conditions set by local authorities. For the next three weeks, we are asking the taxi and private hire trades outside London to give us examples of conditions attached to their licences which they consider to be overly restrictive or unreasonable.**

The DfT only gave a three week timescale with a closing date of the 5 April 2014 for responses to these questions.

The Licensing Manager responded to this consultation on behalf of the Licensing Committee and Members may recall that the Licensing Manager circulated his response to them by e-mail on the 3 April.

For the information and recall of the Committee the response sent to the separate DfT is consultation **is attached to this report as APPENDIX 2.**

The Committee is advised that in respect of items **(i), (ii) and (iii)** shown above, these proposal have been taken forward in the Governments Deregulation Bill which received its second reading in the House of Lords on the 7 July 2014.

It is unknown when these proposals might become law or whether they will all survive full parliamentary scrutiny. They have already been through the House of Commons however.

#### **BACKGROUND PAPERS FOR THE DECISION**

None

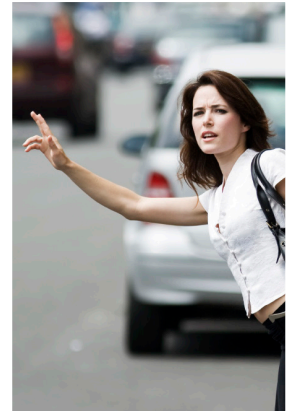
#### **APPENDICES**

**APPENDIX 1 – Full summary of Law Commission Review of the future of Taxi and Private Hire licensing in England and Wales**

**APPENDIX 2 – Response to DfT re Taxi and Private Hire Measures in Deregulation Bill.**



## Taxi and private hire services



# TAXI AND PRIVATE HIRE SERVICES

## SUMMARY

### INTRODUCTION

- 1.1 The Law Commission for England and Wales is an independent, non-governmental body which reviews the law and recommends reform. Our report *Taxi and Private Hire Services* presents our recommendations for wholesale reform of the law. Our remit did not extend to making recommendations about the regulation of public service vehicles, or bus services, except to the extent that there is an overlap with taxi and private hire services. The report is accompanied by a draft Taxis and Private Hire Vehicles Bill, which would give effect to those of our recommendations which would require legislative change, and an impact assessment containing the costs and benefits of our proposals.<sup>1</sup>

### BACKGROUND TO THE REPORT

- 1.2 The current law on taxis and private hire vehicles has evolved piecemeal since taxis in London were first regulated in 1630, primarily as a means of reducing congestion. The regulation of private hire vehicles developed in the latter part of the twentieth century in response to the growing demand for pre-booked services and concerns about the potential dangers associated with unregulated providers.
- 1.3 The law is to be found in numerous pieces of legislation, with different laws applying in London, Plymouth, and the rest of England and Wales. Detailed requirements are determined by individual local licensing authorities, and there is a lack of consistency in the standards applied. This is potentially harmful to public safety, and has a restrictive effect on business. There are overlaps with the regulation of some public service vehicles, in particular those with fewer than nine passenger seats, and there is confusion as to the proper licensing regime for vehicles such as stretch limousines and other novelty vehicles which do not necessarily sit comfortably in any regime. The current law also includes some restrictions which we think impose unnecessary burdens on business, and which we recommend for removal.
- 1.4 The report considers the current law in detail and makes recommendations which would result in the repeal of much of the existing legislation and its replacement with a single legislative framework to regulate both taxi and private hire services.

<sup>1</sup> The full report, draft Bill and impact assessment are available on our website: <http://lawcommission.justice.gov.uk/areas/taxi-and-private-hire-services.htm>.



This would consist of a new Act of Parliament, underpinned by secondary legislation and guidance. The new regime would see the introduction of national standards for all taxis and private hire vehicles, set by the Secretary of State, with the power for local licensing authorities to set additional standards for taxi services only. Local authorities would, however, remain responsible for issuing licences and enforcement in relation to both taxis and private hire vehicles.

- 1.5 The terms of reference for this project required us to consider the potential advantages of deregulation. We took this into account in the formulation of our recommendations, scrutinising each aspect of the regulatory system to determine whether the level of regulation it imposed could be justified. This approach underpins the recommendations made in the Report. In particular we have considered how a lighter-touch and more flexible regulatory regime for private hire services may benefit an industry which is more susceptible to the standard-raising effect of competitive forces than the taxi trade.
- 1.6 In formulating the appropriate level of regulation we concluded that regulatory intervention could only be justified if it promoted one or more of four defined purposes; namely public safety, accessibility, enforcement of the legislation and environmental protection. Our recommendations mean that standards relating to more peripheral issues, such as vehicle types and colours, could only be imposed locally in respect of taxi services.
- 1.7 The recommendations in this Report have been formulated following a wide-ranging consultation with representatives of the taxi and private hire services industries and the regulators, including local licensing authorities, the Traffic Commissioners and the Driver and Vehicle Standards Agency (formally the Vehicle and Operator Services Agency). We also consulted groups representing disabled persons, trades unions, and the police, and welcomed input from specialist consultants. We published a detailed consultation paper in May 2012 to support a consultation during which we received more than 3,000 written responses and attended more than 85 consultation meetings with stakeholders across England and Wales. We have also examined the regulatory structures in different parts of the world, for example, New York, Queensland, Australia, Ireland and parts of the European Union.

#### **THE TWO-TIER SYSTEM**

- 1.8 The current regulatory regime differentiates between taxis, which can be hailed in the street or hired at ranks, and private hire services which must be pre-booked.

We considered whether the continuation of this two-tier system was beneficial, or whether it should be replaced by an alternative regime which would permit any licensed vehicle to be used by a licensed driver to pick up passengers in response to hails or at ranks. Although strong arguments were put forward in support of a new “one-tier” system, we recommend that the present two-tier system should be retained, albeit with important changes to the way in which the distinction between the two types of service is drawn. It is our view that the two-tier structure promotes consumer choice and the provision of a wide range of services. Furthermore, the different ways in which taxis and private hire vehicles are engaged make different levels of regulation appropriate, so that a single system would lead to over or under-regulation.

### **DEFINING TAXI AND PRIVATE HIRE SERVICES**

- 1.9 Although we recommend retaining the two-tier system, we also propose significant changes to the way in which the legal distinction between the tiers should be drawn. The current system relies heavily on the imprecise concept of “plying for hire”, which performs the very important function of defining what taxis alone are allowed to do in undertaking rank and hail work. However, the meaning of the concept is not set out in statute and has become the subject of a body of case-law that is not wholly consistent. The advent of new technology such as mobile phone applications which enable the customer to hire a vehicle almost instantaneously has helped to blur the distinction between the two types of service.
- 1.10 The core recommendation which forms the basis of the new framework we propose in this area is the creation of an offence of using a vehicle on a road to carry passengers, where both the vehicle and the driver have been hired for that purpose, without the appropriate licences. A further offence would differentiate between the different types of service by prohibiting anyone other than a licensed taxi driver, in a licensed taxi, from agreeing to use a vehicle for hire for a journey that starts “there and then”. This means that the holders of private hire licences would be prohibited from accepting a “there and then” hiring. Instead all journeys would have to be pre-booked through a licensed dispatcher,<sup>2</sup> and we recommend that statute should define this term.
- 1.11 Our draft Bill makes a lawful private hire booking one for which records meeting prescribed requirements are kept, and where advance price information is

<sup>2</sup> The term our draft Bill uses in place of the current “operator”.

available on request. By contrast, customers would continue to be able to approach or hail a taxi for a journey beginning there and then with no need for any arrangements in advance.

- 1.12 Under current law the operator is defined as the person who, in the course of business, makes provision for the “invitation or acceptance” of bookings for private hire vehicles. We think this definition is unnecessarily broad, and brings within its remit intermediaries who may arrange a booking through another intermediary and have no responsibility for selecting the car or driver. We recommend that operator licensing should only cover the functions of dispatching the vehicle and driver to fulfil a pre-booking, and not the functions of inviting and accepting bookings, which in themselves would no longer require a licence. As a result, we recommend that such licensees should be known as dispatchers and should be responsible for ensuring that the booking is fulfilled by a licensed driver using a licensed vehicle, that the appropriate information has been provided to the passenger, and that the required records are made and retained. It would be a criminal offence to carry out the functions of a dispatcher without holding an appropriate licence.

#### **CROSS-BORDER WORKING**

- 1.13 We recommend freeing up cross-border working for private hire services. Operators should no longer be limited to using drivers and vehicles from their own licensing area; nor should they be restricted to only inviting or accepting bookings within that licensing area. Under our recommended regulatory framework, licensing district boundaries lose much of their importance in relation to private hire vehicles. National standards for private hire, set by the Secretary of State following consultation, will ensure uniform standards across England and Wales. This will allow consumers to expect, as a minimum, the same level of safety and quality wherever they are, and will remove the incentive for applicants (both taxi and private hire) to seek licences in an area with less exacting standards.
- 1.14 Although local authorities will continue to administer licences applied for in their area, they will do so on the basis of national standards, which they will have no discretion to vary for private hire vehicles and drivers. Once licensed, providers will be able to work across England and Wales and be subject to enforcement action by officers of any licensing authority.
- 1.15 We do not propose any changes to the geographical aspects of the way taxis

work: they will still only be allowed to stand at ranks and accept hails within the area in which they are licensed and they will continue to be allowed to undertake a pre-booked journey starting within or outside that area.

- 1.16 We have heard complaints of problems with taxis seeking licences in an area known for lower standards or lower licensing fees with a view to undertaking pre-booked work elsewhere, sometimes in areas whose standards the vehicle or driver does not meet. Whilst this is within the law, it undermines aspects of the regulatory system. Our recommendations will remove the incentive to engage in this practice as the same or similar minimum standards will apply to both the taxi and private hire sectors; we expect these to govern the most important aspects of driver and vehicle standards. In respect of those standards, taxis will be subject to the enforcement jurisdiction of enforcement officers anywhere.

#### **DEFINITIONS AND SCOPE**

- 1.17 Under current law, different legislation applies to London, Plymouth and the remainder of England and Wales. We recommend that the new legislation should apply throughout England and Wales, including London. There has been general support for this, subject to the proviso that the framework is sufficiently flexible to account for the significantly different features of London.
- 1.18 The terminology used in current taxi legislation is outdated and archaic references to stage coaches and stage carriages have led to confusion as to whether pedicabs can be regulated as taxis. Private hire legislation covers vehicles provided for hire with the services of a driver for the purpose of carrying passengers, but there is uncertainty as to whether the provision of transport as part of a wider service, such as childminding, falls within the scope of private hire vehicle licensing.
- 1.19 Uncertainty over the borderline between private hire regulation and the regulation of public service vehicles (which generally covers larger vehicles such as buses and minibuses), has also led to difficulties over the regulation of limousines and novelty vehicles. The issues relate both to which regime these vehicles should currently be regulated under, as this is not always clear and has led to some services escaping regulation altogether, and which regime would be more appropriate under a reformed system. We propose a clear boundary between the two regimes.
- 1.20 As a deregulatory measure, we also recommend a change in the law to enable the providers of taxi and private hire services to use vehicles with the capacity to

carry up to 16 passengers in particular circumstances under their existing licence. This would provide more flexibility for operators to use larger vehicles where it suits their business model without the additional burden of having to obtain a separate public service vehicle operator licence.

- 1.21 We recommend that taxi and private hire regulation should cover the use of a vehicle to carry one or more passengers, where the vehicle and driver have been hired for that purpose. The draft Bill provides an exception for transport provided as part of a wider service, such as that provided in hotel courtesy cars or by carers, and of transport provided in connection with weddings and funerals, which is already exempted from regulation. Significantly, we propose bringing stretch limousines and other novelty vehicles clearly within private hire regulation. The same is true of pedicabs, which are already regulated as taxis outside London, but will fall within taxi licensing in London for the first time, pursuant to our reforms.
- 1.22 We also make recommendations to clarify what vehicles and services should be subject to licensing obligations. The reference to “hire” in our Bill limits the regulation to commercial activities, thus excluding informal car sharing arrangements where any financial contribution is limited to a share of expenses. We also recommend that the Secretary of State should have the power to exempt particular vehicles or services from licensing.

### **COMMON NATIONAL STANDARDS FOR VEHICLES, DRIVERS AND DISPATCHERS**

- 1.23 Currently, standards for taxis, private hire vehicles, drivers and private hire operators are set by local authorities, which are responsible for the administration of the licensing system. This leads to substantial regional variation, even in such critical areas as the treatment of past criminal convictions and medical conditions. It can have a very restrictive effect on business, by making it difficult to be licensed in more than one area as a means of expanding one’s business.
- 1.24 A key innovation in our recommended framework is the introduction of national standards for taxi and private hire vehicle licensing. These standards would relate to drivers, vehicles and dispatchers (as our draft Bill calls operators). The content of national standards would be determined by the Secretary of State further to a statutory consultation with specified stakeholders including the trades, regulators and disability groups. We are recommending that national standards should be limited to defined purposes, namely public safety, accessibility, matters relevant

to the enforcement of the legislation and environmental protection. In respect of private hire services, national standards should entirely replace locally-set conditions. In respect of taxi services, by contrast, we recommend that national standards should be capable of being supplemented at local level.

### **CRIMINAL OFFENCES SPECIFIC TO THE TRADES**

- 1.25 We propose the abolition of a number of out of date offences; in place of them we propose a more streamlined set of offences contained in our draft Bill together with reliance on the general criminal law or on licence conditions. We propose that the Secretary of State have the power to designate the most important nationally set standards so that breach of them will be a criminal offence.

### **LOCAL TAXI STANDARDS AND TAXI FARE REGULATION**

- 1.26 The continuing ability of licensing authorities to set additional conditions would be subject to procedural requirements relating to consultation and publication. Our recommendations also retain the current system of leaving fares to the discretion of the local authority. Drivers would continue to be able to charge more than the metered fare where a journey begins inside the licensing area but ends beyond the compellable distance, provided the fare is agreed and recorded in advance. However, we recommend that licensing authorities should not have power to regulate third party booking fees which are agreed in advance, as these represent a genuinely competitive aspect of taxis working in the pre-booked market.

### **ADMINISTRATION OF THE LICENSING SYSTEM**

- 1.27 Administration of the licensing regime and enforcement should continue to be carried out at local level by licensing authorities. Taxi licence fees should continue to be set on a cost recovery basis, with a uniform licence fee for private hire services to discourage applicants (who would now be subject to the same requirements across England and Wales) applying to an authority for purely financial reasons. We recommend procedural steps to improve co-operation between licensing authorities, to assist with administration and enforcement. We also recommend a more flexible power to create, remove and modify taxi zones, which would be subject to a public interest test.

### **QUANTITY RESTRICTIONS**

- 1.28 We recommend allowing licensing authorities to continue to limit taxi numbers. We do not regard the current statutory criterion of “unmet demand” as appropriate and instead suggest a test based on the public interest, combined

with procedural requirements such as a review every three years and a duty to consult.

- 1.29 Whilst we accept that quantity controls can be a positive regulatory tool for licensing authorities, when exercised in accordance with the public interest and appropriate safeguards, they have the undesirable side-effect of creating inflated plate values (effectively transfer fees for vehicle licenses) which act as a barrier to entry. We recommend that there should be no changes to the transferability of licence plates in areas that currently have quantity restrictions, so that licence holders who may have invested a considerable amount of money to purchase the licence, or otherwise reasonably expected their plate to have accrued substantial value, would not be negatively impacted by our reforms. On the other hand, taxi licences in areas which first introduce quantity restrictions only after our reforms come into force should not be tradeable. This would prevent new plate values from arising in areas which introduce quantity restrictions only after implementation of our reforms.

#### **EQUALITY AND ACCESSIBILITY**

- 1.30 Although the general provisions of the Equality Act 2010 applicable to service providers apply to taxi and private hire services, it is clear that disabled passengers continue to suffer difficulties in obtaining and using these services. Furthermore, variable standards in relation to driver training and vehicle specifications mean that passengers may have very different experiences from one area to another.
- 1.31 We recommend that taxi and private hire drivers, both new and existing, should be required to undergo disability awareness training as a pre-condition of the grant or renewal of a licence. Our proposals give licensing authorities the power to introduce a new duty to stop when hailed, associated with compellability to help address the problem of drivers ignoring disabled passengers. Our recommendations to make complaints procedures more accessible can also be particularly valuable to empower disabled users.

#### **ENFORCEMENT**

- 1.32 Under our recommendations, enforcement would remain the responsibility of licensing authorities. However, under current law, licensing officers are only able to take action against their own licensees. Furthermore, many licensing enforcement officers told us that their powers were not sufficient to tackle the breaches of conditions and licensing law they encountered.

- 1.33 Many of the problems with enforcement derive from the lack of adequate resources and a perceived lack of interest in enforcing existing rules. These are not issues that legal reform is apt to address. On the other hand, we make a range of recommendations to enhance licensing officers' powers, including granting them powers to stop a licensed vehicle on a road, without the need for a police officer to be present; to impound vehicles for touting; and to issue a fixed penalty notice to a person whom they have reason to believe has breached any provision in national standards.
- 1.34 We also recommend that such powers should apply in respect of out-of-area vehicles. Our proposed reforms will make it possible for licence conditions prescribed as part of national standards (which will form the entirety of private hire licence conditions as well as the core of taxi conditions) to be enforced by any licensing officer against any licensee, across England and Wales.

#### **HEARINGS AND APPEALS**

- 1.35 The current law is characterised by inconsistency and complexity. We propose a simplified, uniform system. We recommend that the procedure for statutory appeals should be standardised across England and Wales (including London) for all forms of licence and irrespective of whether the decision challenged is a refusal of an application for a licence, a suspension or a revocation. In line with the current London model, applicants should be able to require the licensing authority to reconsider its original decision, the second stage in the statutory appeal process being an appeal to the magistrates' court, with a further right of appeal to the Crown Court. Further, we recommend that local taxi conditions should be amenable to a streamlined judicial review procedure in the County Court.

23 May 2014



# LIST OF RECOMMENDATIONS

## CHAPTER 2 – RETAINING THE TWO TIER SYSTEM

### Recommendation 1

We recommend retaining the two-tier system. Regulation should continue to distinguish between taxis, which can be hailed or use ranks, and private hire vehicles, which can only be pre-booked. (*Page 16*)

## CHAPTER 3 – REFORM OF DEFINITIONS AND SCOPE

### Recommendation 2

We recommend that the offences relating to plying for hire should be abolished. We propose replacing the concept of plying for hire with a new scheme of offences, resting on the principal prohibition of carrying passengers for hire without a licence, alongside a new offence making it unlawful for anyone other than a local taxi driver to accept a journey starting “there and then”. (*Page 22*)

### Recommendation 3

We recommend a statutory definition of pre-booking in order to create a clear distinction between the work of a taxi in its licensing area and the work of a private hire vehicle. (*Page 22*)

### Recommendation 4

We recommend that the term “hackney carriage” should be replaced in legislation with the word “taxi”. The term “private hire vehicle” should remain unchanged. (*Page 24*)

### Recommendation 5

We recommend that only the providers of licensed taxi services should be allowed to describe themselves using the term “taxi” on vehicles or in advertising materials. (*Page 24*)

### Recommendation 6

Operators across England and Wales (dispatchers under our Bill) should be under a duty to provide a price or an estimate of the fare on request, as is already the case in London. (*Page 26*)

### Recommendation 7

We recommend that taxis picking up passengers outside their licensing area should be subject to a pre-booking requirement, which would be statutorily defined for the first time. This would require provision of an estimate of the price for the journey in advance, if requested, and record-keeping obligations. These requirements could be further refined through national standards as set by the Secretary of State. (*Page 32*)

### Recommendation 8

We do not recommend the introduction of record-keeping requirements in respect

of taxis except where they are picking up passengers outside their licensing area. *(Page 32)*

#### Recommendation 9

We recommend that local authority stopping officers should have a new enforcement power to require licensed vehicles to move on where the officer considers that:

(1) there is a reasonable likelihood that the public may believe the vehicle is available for immediate hire;

(2) the vehicle is causing an obstruction to traffic flow; or

(3) the driver is attempting to take work away from ranked taxis. *(Page 33)*

#### Recommendation 10

We recommend introducing a new offence which makes it unlawful for anyone other than a locally licensed taxi driver to accept a booking for a journey starting there and then. *(Page 34)*

#### Recommendation 11

We recommend that compellability should be retained in its current form. It should be open to licensing authorities to express compellability as a time or distance from the point of hire, or as extending to the boundaries of a licensing zone. Licensing authorities should also be able to extend the compellable distance up to seven miles beyond the boundary of the licensing area, or twenty miles in the case of Transport for London. *(Page 37)*

#### Recommendation 12

Licensing authorities should have the power to make a determination that in their areas, taxis should be under a duty to stop when hailed. In such areas, it would be an offence for a taxi driver in a vehicle displaying a "for hire" sign to fail to stop in response to a hail, without reasonable excuse. *(Page 38)*

#### Recommendation 13

Licensing authorities should be under a duty to consult on the need to alter rank provision; and to consider whether new ranks should be appointed, or current ones moved or removed, on a periodic basis not exceeding every three years. *(Page 39)*

#### Recommendation 14

We recommend that those acting in the course of a business who pass taxi or private hire bookings to providers who they know or suspect to be unlicensed should be guilty of an offence. *(Page 41)*

#### Recommendation 15

We do not propose to require intermediaries working solely with licensed taxis (which we refer to as "radio circuits") to be licensed. *(Page 44)*

#### Recommendation 16

We recommend that licensed operators (in future to be referred to in legislation as “dispatchers”) should be retained as a necessary element of the regulation of private hire services. *(Page 46)*

#### Recommendation 17

We recommend that operator licensing should only cover dispatch functions, and no longer apply to the invitation or acceptance of bookings as such. However, if it is shown that an individual or company accepted a hire vehicle booking, a presumption should arise that that person also “dispatched” the driver. This ensures the continued accountability of those who, in the course of business, accept hire vehicle bookings from the public. *(Page 48)*

#### Recommendation 18

It should also be an offence, in the course of business, to dispatch an unlicensed vehicle or driver. It would also be an offence for a person to dispatch a private hire vehicle and driver unless that person holds a dispatcher’s licence. It would be a defence if the driver and vehicle were reasonably believed to hold appropriate taxi licences. *(Page 48)*

#### Recommendation 19

Persons accepting a hire vehicle booking in the course of business should be under a duty to provide information to the hirer in respect of any person on to whom they passed the booking. *(Page 48)*

### **CHAPTER 4 – DEFINITIONS AND SCOPE**

#### Recommendation 20

We recommend that our proposed reforms should extend to all of England and Wales, including London and Plymouth. *(Page 55)*

#### Recommendation 21

Taxi and private hire licensing should cover vehicles regardless of their form or construction, including non-motorised vehicles. *(Page 57)*

#### Recommendation 22

We recommend that taxi and private hire licensing requirements should only cover services provided for commercial gain. *(Page 63)*

#### Recommendation 23

We recommend that taxi and private hire licensing should not cover the carriage of a passenger as an ancillary or incidental part of another service. *(Page 63)*

#### Recommendation 24

We recommend that, for the purposes of taxi, private hire and public service vehicle legislation, all passenger seats and spaces capable of carrying a standing passenger should be included when assessing vehicle carrying capacity. *(Page 66)*

#### Recommendation 25

We recommend that consideration be given to revising the criteria for licensing a vehicle as a “small public service vehicle” , making them more clearly centred on local bus services. *(Page 67)*

#### Recommendation 26

We recommend extending the reach of taxi and private hire licensing to larger vehicles in two circumstances:

- (a) on a mandatory basis, in respect of stretch limousines and novelty vehicles; and
- (b) on an optional basis, where providers want to use larger vehicles in a taxi or private hire business. *(Page 70)*

#### Recommendation 27

We recommend that the Secretary of State should have the power to exempt certain categories of vehicle or services used to carry passengers for hire from the requirement to hold a taxi or private hire licence. Licensing authorities would, however, retain the power to impose licensing requirements on vehicles used as taxis within their local licensing area. *(Page 71)*

#### Recommendation 28

We recommend that wedding and funeral cars should continue to be exempt from taxi and private hire licensing while the vehicle is being used in connection with a wedding or a funeral. *(Page 74)*

#### Recommendation 29

Non-professional use of licensed taxi and private hire vehicles, including by non-professional drivers, should be permitted, subject to a rebuttable presumption that such vehicles are being used professionally when they are carrying passengers. *(Page 77)*

### **CHAPTER 5 – COMMON NATIONAL STANDARDS FOR TAXI AND PRIVATE HIRE**

#### Recommendation 30

We recommend the introduction of national standards for taxi and private hire services. *(Page 80)*

#### Recommendation 31

National standards should promote enforcement, protection of the environment and accessibility, in addition to safety. *(Page 82)*

#### Recommendation 32

National standards for taxi services should be comparable but not necessarily identical to national standards for private hire services. *(Page 82)*

#### Recommendation 33

We recommend that driver and vehicle standards should be set in secondary legislation by the Secretary of State. *(Page 84)*

#### Recommendation 34

The standard setting power of the Secretary of State should be subject to a statutory consultation requirement. *(Page 91)*

#### Recommendation 35

We recommend that the ability to apply for a vehicle licence should no longer be restricted to vehicle owners. *(Page 93)*

#### Recommendation 36

Applicants for vehicle licences should not be subject to a fit and proper person test. *(Page 95)*

#### Recommendation 37

We recommend that licensing authorities should not have a general power to impose individual conditions on the holders of taxi or private hire licences. *(Page 98)*

### **CHAPTER 6 – CRIMINAL OFFENCES SPECIFIC TO THE TAXI AND PRIVATE HIRE TRADES**

#### Recommendation 38

We recommend that the Secretary of State should exercise the standard setting power to provide that a conviction for specified offences is a breach of a licensing condition, or incompatible with eligibility to hold a licence. *(Page 101)*

#### Recommendation 39

The Secretary of State should have the power to designate specific licence conditions, breach of which will amount to a criminal offence. *(Page 102)*

### **CHAPTER 7 – NATIONAL STANDARDS FOR PRIVATE HIRE**

#### Recommendation 40

Private hire services should only be subject to national standards. Licensing authorities should no longer have the power to impose local conditions. *(Page 104)*

#### Recommendation 41

We recommend that dispatchers should continue to be subject to fit and proper person requirements as part of national standards. *(Page 105)*

Recommendation 42

We recommend that dispatchers should be subject to a statutory duty to maintain records in such form as may be prescribed by the Secretary of State. *(Page 107)*

Recommendation 43

Signage requirements for private hire vehicles should form part of the national standards determined by the Secretary of State. The Secretary of State should impose requirements that aim to ensure that the public are able to distinguish easily between taxis and private hire vehicles. *(Page 112)*

Recommendation 44

We recommend that operator/dispatchers should no longer be restricted to working only with drivers and vehicles whose licences are issued by the same licensing authority as the dispatcher. *(Page 115)*

Recommendation 45

Dispatchers should have the ability to sub-contract bookings to any dispatcher in England and Wales. *(Page 117)*

**CHAPTER 8 – LOCAL TAXI STANDARDS**

Recommendation 46

We recommend that licensing authorities should retain the power to set local taxi standards over and above national standards. *(Page 120)*

Recommendation 47

Licensing authorities should be required to consult on additional licensing conditions for taxi drivers and vehicles. *(Page 121)*

**CHAPTER 9 – TAXI FARE REGULATION**

Recommendation 48

Licensing authorities should retain the ability to regulate taxi fares, in respect of any journey within the compellable distance. *(Page 125)*

Recommendation 49

A taxi driver should be allowed to charge more than the metered fare for journeys starting inside the licensing area and ending beyond the compellable distance only if this is agreed in advance. In the case of pre-booked journeys starting outside the compellable distance the price or an estimate should be given on request and, if so, recorded. *(Page 125)*

Recommendation 50

We recommend that licensing authorities should retain the power to regulate fares charged for pre-booked taxi journeys. However, there should be no power to regulate third party booking fees, provided these are agreed in advance. *(Page 130)*

## **CHAPTER 10 – ADMINISTRATION OF THE LICENSING SYSTEM**

### Recommendation 51

The principle of cost recovery should continue to apply in respect of taxi and private hire licensing fees. *(Page 134)*

### Recommendation 52

Licensing authorities should be able to collect and use licensing fees from taxi and private hire licensing only for the following purposes:

- (1) administration of the licensing system (including but not limited to processing applications for granting or renewing licences and carrying out inspections and tests);
- (2) statutorily required reviews of fare levels, rank provision, accessibility and existing quantity restrictions at least every three years;
- (3) enforcement of the licensing system including but not limited to the control and supervision of taxi and private hire services (whether licensed or unlicensed) and activities associated with suspending or revoking licences; and
- (4) providing taxi ranks. *(Page 134)*

### Recommendation 53

We recommend that the Secretary of State should set a private hire licensing fee which could not be varied locally. Taxi licensing fees should continue to be set locally, but at a level no lower than the national private hire fee. *(Page 135)*

### Recommendation 54

We recommend that the Secretary of State should have the power to set up a system of pooling private hire licence fees nationally, for the purposes of redistributing these to reflect enforcement needs, in accordance with such a scheme as may be prescribed. *(Page 136)*

### Recommendation 55

Licensing authorities should have the power to combine their taxi and private hire licensing areas. *(Page 138)*

### Recommendation 56

We recommend that licensing authorities should be under a duty to publish their driver, vehicle and operator licensing data in such form as the Secretary of State may require. *(Page 140)*

### Recommendation 57

Licensing authorities should have a more flexible power to introduce and remove taxi licensing zones. This power would permit removal or introduction of zones within a licensing district. The power should be subject to consultation and a statutory public interest test. *(Page 143)*

## **CHAPTER 11 – QUANTITY RESTRICTIONS**

### Recommendation 58

We recommend that licensing authorities should continue to have the power to limit the number of taxi vehicles licensed in their area. (*Page 159*)

### Recommendation 59

The power of licensing authorities to impose quantity restrictions should be subject to a statutory public interest test. Further, the Secretary of State should have regulation-making powers prescribing how the statutory test should be applied. (*Page 162*)

### Recommendation 60

Decisions to restrict taxi numbers should be reviewed at least every three years and be subject to local consultation in accordance with such procedures as may be prescribed in regulations made by the Secretary of State. (*Page 162*)

### Recommendation 61

In licensing areas where quantity restrictions already exist at the time of the introduction of our reforms, but not in other areas, vehicle licence holders should continue to be able to transfer their taxi licences at a premium. (*Page 166*)

## **CHAPTER 12 – ACCESSIBILITY**

### Recommendation 62

We recommend that taxi and private hire drivers be required to undergo disability awareness training of a standard set by the Secretary of State. (*Page 170*)

### Recommendation 63

We recommend that the Secretary of State require information on how to complain about taxi and private hire vehicle services to be displayed in taxi and private hire vehicles. (*Page 171*)

### Recommendation 64

We recommend that local licensing authorities should display complaint information in offices, libraries and on websites. (*Page 171*)

### Recommendation 65

We recommend that licensing authorities conduct an accessibility review at three year intervals. (*Page 172*)

### Recommendation 66

We recommend that the Secretary of State require holders of taxi and private hire driver licences and dispatcher licences to comply with the Equality Act 2010 as a condition of the licence. (*Page 175*)

### Recommendation 67

We recommend that licensing authorities should reconsider rank design to ensure compliance with the Equality Act 2010. (*Page 177*)



#### Recommendation 68

We recommend that licensing conditions should provide that information about the licensing authority and local operators should be provided in alternative formats, as well as information about the types of vehicle available in their area. *(Page 177)*

#### Recommendation 69

We recommend that the Secretary of State should have the power to impose accessibility requirements on large operator/dispatchers. In particular, the power should permit the setting of quotas of accessible vehicles which must be available to such dispatchers. *(Page 179)*

### **CHAPTER 13 – ENFORCEMENT**

#### Recommendation 70

We recommend that licensing officers who have been suitably trained and accredited should be given the power to stop licensed taxi and private hire vehicles in a public place for the purpose of checking compliance with licensing requirements. *(Page 183)*

#### Recommendation 71

The offence of touting should be retained. It should continue to be an offence of broad application which extends to all persons, whether licensed or unlicensed. *(Page 187)*

#### Recommendation 72

We recommend that there should be a new defence to touting, where the solicitation is in respect of a licensed taxi or private hire vehicle, if the soliciting occurs in a place which has been designated by that licensing authority for that purpose, and that conditions as may be specified by the licensing authority have been complied with. *(Page 187)*

#### Recommendation 73

We recommend that the Sentencing Council consider amending the Magistrate's Court Sentencing Guidelines in respect of taxi touting to take into account the vulnerability of the persons solicited as a relevant factor in sentencing. *(Page 189)*

#### Recommendation 74

We recommend that licensing authorities should have the power to impound vehicles used in connection with touting. *(Page 193)*

#### Recommendation 75

Fixed penalties should be among the sanctions available in respect of minor criminal offences under taxi and private hire legislation. *(Page 195)*

#### Recommendation 76

We recommend extending the power to suspend licences immediately on grounds of public safety to all licence types, in line with the current position in

London. (*Page 196*)

Recommendation 77

Licensing officers should be able to take non-criminal enforcement action against vehicles, drivers and operators, licensed outside their licensing area. (*Page 198*)

Recommendation 78

We recommend that powers to revoke a licence should be available only to the licensing authority which issued that licence. However, enforcement officers in another area should have the power to:

- (a) suspend a licence when they consider this to be necessary in the interests of public safety; and
- (b) make recommendations to the home licensing authority as to appropriate sanctions, to which the home authority must have regard. (*Page 200*)

## **CHAPTER 14 – HEARINGS AND APPEALS**

Recommendation 79

The right to appeal against refusals to grant or renew taxi and private hire licences or to suspend or revoke them should be limited to the applicant or licence holder. (*Page 202*)

Recommendation 80

We recommend that the first stage in the appeal process in respect of refusals, suspensions or revocations of licences should be the right to require licensing authorities to reconsider the original decision. Appellants should have the right to bypass this stage and proceed direct to the magistrates' court. (*Page 206*)

Recommendation 81

We recommend that all taxi and private hire licensing appeals should be heard in the magistrates' court. (*Page 209*)

Recommendation 82

We recommend the retention of an onward right of appeal to the Crown Court. (*Page 210*)

Recommendation 83

We recommend that applicants for a vehicle licence for an opt-in vehicle should have a right of appeal to the Upper Tribunal if their application is refused on the basis of an objection by the Senior Traffic Commissioner. (*Page 210*)

Recommendation 84

We recommend that a County Court judicial review procedure along the lines provided under the Housing Act 1996 should be available to challenge taxi conditions set by licensing authorities. (*Page 212*)

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4 April 2014

Dear Mr Padden

**Re TAXI AND PRIVATE HIRE MEASURES: DEREGULATION BILL**

Thank you for your letter of the 14 March 2014 in respect of a consultation on proposed changes to Hackney Carriage and Private Hire legislation as part of the Governments 'Deregulation Bill'.

I am writing on behalf of this Council to this consultation and will respond to the proposed measures that you have detailed in your letter of the 14 March in the order that they have been listed in that letter.

**(i) Allowing private hire operators to sub-contract bookings to operators licensed in a different district. This change will improve operators' ability to meet passengers' needs. And it will help to make the passenger's experience so much more convenient.**

**Response**

This Council as the Licensing Authority for Hackney Carriage and Private Hire Drivers, Vehicles and Operators in our District would support this proposal and see this as sensible and flexible improvement for passengers and the Private Hire industry. We would caveat this by stating that the private hire operators both inside and outside the licensed district must have a private hire operator's licence in force to ensure standards of safety and reliability for passengers and that it is important that the liability for the contract remains with the operator who took the original booking but now seeks to sub contract this out. This will ensure that in the event of poor service or a failure to fulfil the contract by the sub contract operator, the customer (passenger), is not faced with seeking recourse from an operator who may be based many miles outside of the district that they live in.

**(ii) Allowing anyone with an ordinary driver's licence to drive a private hire vehicle when it is "off-duty". The principal benefit of this measure is that a PHV could be used as a family car, freeing up many families from the need to run a second car and saving them money.**

## Response

This Council does not support this proposal and believes it will result in severe difficulties for enforcement authorities in determining if a vehicle is being illegally used to ply for hire and indeed is likely to create an immediate defence for anyone caught illegally plying for hire in a licensed private hire vehicle (which as the Department for Transport (DfT) will be aware can only be a pre-booked service).

It may also be anomalous and unfair to the hackney carriage trade, many of who may also wish to use their licensed vehicle as a “family car” when it is not being used for business, but cannot because of stated case law. Principally *Yates v Gates* 1970.

This Council has very recently brought a prosecution against an unlicensed driver for carrying a fare paying passenger without the benefit of a hackney carriage/private hire driver’s licence which quite rightly the Court took an extremely serious view of given that it comprised the passenger’s safety. The Court awarded a fine and costs against the unlicensed driver of £5,000 and imposed 12 penalty points on their DVLA licence. This prosecution (which the driver concerned pleaded guilty over) would almost certainly not have succeeded under this proposal as they would have had a readymade defence to use.

**(iii) Making the standard duration for all taxi and PHV driver licences three years; and five years for all PHV operator licences. Shorter durations will only be granted on a case by case basis, where it is justifiable for a particular reason. This will reduce the financial and administrative burden of having to make more frequent licence renewals.**

## Response

In respect of the duration of taxi and private hire vehicle driver licences, this Council would be surprised if the majority of the taxi and private hire trades were in support of this measure, particularly new driver licence applicants to the trades. In this Council’s experience it is the drivers (as applicants) themselves who request one or two year licences as an economic choice or necessity. In seeking to reduce a perceived financial and administrative burden it will create an economic burden for many applicants who simply cannot afford the cost of a three year licence, or are unwilling to outlay for the cost of a three year licence because they are unsure if they will wish to remain in the trade for that long. For example a driver who wished to retire before the end of a three year period. Anecdotally, often taxi and private hire driving is seen by applicants as a short term gap to fill in employment while finding longer term work outside of the taxi and private hire trade. The fact that the department for transport wishes to change the law to allow private hire vehicles to become “family cars” when not being used for private hire work would actually seem to substantiate the point that many private hire drivers in particular do not see private hire as a long term employment solution.

To amend the flexibility of applicants to apply for a one, two or three year hackney carriage and private hire drivers licence in favour of shorter durations being granted on a “case by case basis” will in fact increase the administrative burden for both the Licensing Authority and the applicant and by virtue also the administrative costs of licensing for both parties. A “case by case basis” suggests some sort of appeal process having to be put in place or considered to look at each application in its own merit in this regard which will without doubt increase time and costs for both parties in doing so

This Council would therefore urge the DfT to retain the flexibility of one, two or three year licences on the basis that to introduce a standard three year duration will actually increase the administrative burden and cost for both the Licensing Authority and the applicant and will in fact result in the opposite of what the DfT proposal seeks to achieve.

In respect of the duration of Private Hire Operator Licences, this Council already grants five year operator licences and believes that the circumstances of granting a five year operator licence are substantially different to retaining the flexibility of one, two or three year driver's licences.

**(iv) Finally, we want to consider the case for Government involvement in the licence conditions set by local authorities. For the next three weeks, we are asking the taxi and private hire trades outside London to give us examples of conditions attached to their licences which they consider to be overly restrictive or unreasonable.**

## **Response**

This Council acknowledges that there may be examples where Licensing Authorities may have attached conditions to taxi and private hire licences which the trades concerned could consider restrictive or unreasonable. However, overall for the vast majority of Council's, conditions attached to licences are set for local reasons and will always be set by elected Members. In doing so, they will have been introduced following consultation with stakeholders and interested parties and will be considered by elected Members against the 'Wednesbury' principle of reasonableness and will be proportionate. All Licensing Committees will have access to advice from their Council's legal officer.

It is therefore unreasonable and disproportionate of the DfT to accept at complete face value the taxi and private hire trade sending in to them examples of what they consider as unreasonable or restrictive conditions without offering a right of reply to the Council's concerned, or without considering an alternative point of view. In doing so the DfT risks acting as both judge and jury and such an approach should be considered as potentially highly impartial.

This Council also questions the timing of the Department for Transport proposals which risks making a complete nonsense of the Law Commission's own consultations which have taken place widely over many months and as a result may damage their anticipated final report and recommendations for revising current hackney carriage and private hire legislation. The department's proposals could run counter to the significant body of work undertaken by the Law Commission for example and feel rushed as a result.

It is disappointing that the DfT has also not allowed enough time for Council's to place their proposals for the full consideration of their Licensing Committee. The DfT surely must be aware that a three week consultation period does not give anywhere near enough time for licensing officers to fully brief and consult with their Licensing Committee Members on a response. Your letter of the 14 March also makes the outcome of the proposals and consultation already appear to be a foregone conclusion. In which case why consult?

Yours sincerely

*Sharvey*

**SIMON HARVEY  
LICENSING MANAGER**