

GENERAL PURPOSES COMMITTEE

15 NOVEMBER 2018

DEPARTMENT OF TRANSPORT TASK & FINISH GROUP ON TAXI AND PRIVATE HIRE VEHICLE LICENSING

1.0 Purpose of Report

- 1.1 To set out to Members the recommendation of the Task & Finish group on taxi and private hire vehicle licensing

2.0 Introduction

- 2.1 The current law on taxis and PHVs has been criticised for being complex and outdated. The licensing of hackney carriages in particular dates back to 1847 and that for private hire vehicles to 1976. 17 principal Acts of Parliament, 8 statutory instruments and over 150 court decisions regulate these activities.
- 2.2 In early 2011 the Law Commission announced its intention to undertake a review of the existing framework of taxi and private hire vehicle regulation with a view to preparing proposals for consultation and then making recommendations to government. The project examines the legal framework relating to taxis and PHVs with a view to making it simpler and more modern. The report from the Law Commission was published in 2014.
- 2.3 In a response to the Law Commission report a Task & Finish Group was established by the Department of Transport as the Secretary of State considered the current legislation no longer fit for purpose.

3.0 Background

- 3.1 The Task & Finish Group was brought together between July and August 2017 by the then Minister of State for Transport the Rt. Hon. John Hayes CBE MP and met for the first time in September 2017.
- 3.2 The Group's objectives were confirmed in the Terms of Reference agreed by its members. The Group was tasked with:
- Considering evidence relating to the adequacy of current taxi and PHV licensing authority powers, as set out in legislation and guidance, making recommendations for actions to address any priority issues identified. Specifically:
 - Identifying the current priority concerns regarding the regulation of the sector, based on evidence of impact and scale across England;
 - Considering, in particular, the adequacy of measures in the licensing system to address those issues;
 - Considering whether it would advise the Government to accept the recommendations made in the Law Commission's May 2014 report on taxi and PHV legislative reform relevant to the issues, and;
 - Making specific and prioritised recommendations, legislative and non-legislative, for action to address identified and evidenced issues.

4.0 The Report Recommendations

- 4.1 The report makes 34 recommendations covering a wide range of issues. The recommendations in full are attached as appendix one. However, there are some of the recommendations that will have some resonance with this Committee and they are discussed in more detail below.

4.2 Recommendation 1

Notwithstanding the specific recommendations made below, taxi and PHV legislation should be urgently revised to provide a safe, clear and up-to-date structure that can effectively regulate the two-tier trade as it is now.

Officer Comment – there is clear support for the current two tier system of Hackney Carriages and Private Hire Vehicles.

4.3 Recommendation 2

Government should legislate for national minimum standards for taxi and PHV licensing - for drivers, vehicles and operators (see recommendation 6). The national minimum standards that relate to the personal safety of passengers must be set at a level to ensure a high minimum safety standard across every authority in England.

Government must convene a panel of regulators, passenger safety groups and operator representatives to determine the national minimum safety standards. Licensing authorities should, however, be able to set additional higher standards in safety and all other aspects depending on the requirements of the local areas if they wish to do so.

Officer Comment – This will remove the widely differing standards between local authorities. We would expect the highest standards to be adopted rather than the lowest.

4.4 Recommendation 9

All licensing authorities should use their existing powers to make it a condition of licensing that drivers cooperate with requests from authorised compliance officers in other areas. Where a driver fails to comply with this requirement enforcement action should be taken as if the driver has failed to comply with the same request from an officer of the issuing authority.

Officer comment – This would go some way to addressing the enforcement issues with 'out of town drivers and vehicles.

4.5 Recommendation 11

Government should legislate that all taxi and PHV journeys should start and/or end within the area for which the driver, vehicle and operator (PHV and taxi – see recommendation 6) are licensed. Appropriate measures should be in place to allow specialist services such as chauffeur and disability transport services to continue to operate cross border.

Operators should not be restricted from applying for and holding licences with multiple authorities, subject to them meeting both national standards and any additional requirements imposed by the relevant licensing authority.

Officer comment – this would be a major step forward and return the control back to licensing authorities to manage the vehicles and drivers operating in its area.

4.6 Recommendation 14

The Department for Transport and Transport for London should work together to enable the issue of Fixed Penalty Notices for both minor taxi and PHV compliance failings. The Department for Transport should introduce legislation to provide all licensing authorities with the same powers.

Officer Comment – This would streamline the enforcement process and give licensing authorities additional powers to impose a financial penalty.

4.7 Recommendation 16

The Department for Transport must, as a matter of urgency, press ahead with consultation on a draft of its Statutory Guidance to local licensing authorities. The guidance must be explicit in its expectations of what licensing authorities should be doing to safeguard vulnerable passengers. The effectiveness of the guidance must be monitored in advance of legislation on national minimum standards.

Officer Comment – As Members are aware Nottinghamshire has introduced training and procedures for addressing safeguarding issues. A national approach is welcomed but the detail of the guidance will be important.

4.8 Recommendation 17

In the interests of passenger safety, particularly in the light of events in towns and cities like Rochdale, Oxford, Newcastle and Rotherham, all licensed vehicles must be fitted with CCTV (visual and audio) subject to strict data protection measures. Licensing authorities must use their existing power to mandate this ahead of inclusion in national minimum standards.

To support greater consistency in licensing, potentially reduce costs and assist greater out of area compliance, the Government must set out in guidance the standards and specifications of CCTV systems for use in taxis and PHVs. These must then be introduced on a mandatory basis as part of national minimum standards.

Officer Comment – This recommendation does cause some concerns. This may impose a significant financial burden on drivers. The security of data and how it is stored and handled will also be crucial if this recommendation is going to deliver the benefits it is designed to do.

4.9 Recommendation 20

All drivers must be subject to enhanced DBS and barred lists checks. Licensing authorities should use their existing power to mandate this ahead of inclusion as part of national minimum standards.

All licensing authorities must require drivers to subscribe to the DBS update service and DBS checks should/must be carried out at a minimum of every six months. Licensing authorities must use their existing power to mandate this ahead of inclusion as part of national standards.

Officer Comments – this is the process that is undertaken by NSDC officers, however DBS checks are only carried out every 12 months not 6 as in the recommendation.

4.10 Recommendation 21

Government must issue guidance, as a matter of urgency, that clearly specifies convictions that it considers should be grounds for refusal or revocation of driver licences and the period for which these exclusions should apply. Licensing authorities must align their existing policies to this ahead of inclusion in national minimum standards.

Officer Comment – The Nottinghamshire authorities have adopted a consistent approach. Members will no doubt want to see the detail if the proposals lessen the controls that are currently in place.

4.11 Recommendations 23 and 24

All licensing authorities must use the National Anti-Fraud Network (NAFN) register of drivers who have been refused or had revoked taxi or PHV driver licence. All those cases must be recorded and the database checked for all licence applications and renewals. Licensing authorities must record the reasons for any refusal, suspension or revocation and provide those to other authorities as appropriate. The Government must, as a matter of urgency, bring forward legislation to mandate this alongside a national licensing database (recommendation 24).

As a matter of urgency Government must establish a mandatory national database of all licensed taxi and PHV drivers, vehicles and operators, to support stronger enforcement.

Officer Comment – The NAFN data base has been established and this authority is uploading its data.

4.12 Recommendation 25

Licensing authorities must use their existing powers to require all drivers to undertake safeguarding/child sexual abuse and exploitation awareness training including the positive role that taxi/PHV drivers can play in spotting and reporting signs of abuse and neglect of vulnerable passengers. This requirement must form part of future national minimum standards.

Officer comment – This is already done in Nottinghamshire

4.13 All individuals involved in the licensing decision making process (officials and Councillors) must be obliged to undertake appropriate training. The content of the training must form part of national minimum standards.

Officer Comment – All Members of the General Purposes Committee are trained when they first join the Committee and additional training is provided.

4.14 Recommendation 29 and 31

All licensing authorities should use their existing powers to require that the taxi and PHV drivers they license undergo disability, equality and awareness training. This should be mandated in national minimum standards.

Licensing authorities which have not already done so should set up lists of wheelchair accessible vehicles (WAVs) in compliance with s.167 of the Equality Act 2010, to ensure that passengers receive the protections which this provides.

Officer Comment – Disability and equality training is currently not required as a condition of license in NSDC.

A report on the adoption of section 67 will be brought to Committee at the next cycle.

4.15 Recommendation 34

Government should urgently review the evidence and case for restricting the number of hours that taxi and PHV drivers can drive, on the same safety grounds that restrict hours for bus and lorry drivers.

Officer Comment – guidance on driver working hours is provided to newly licensed drivers but this cannot be enforced under the existing legislation.

5.0 Proposals

5.1 The Chair of the Task & Finish Group in his summary states:

‘As my task is now complete, the onus falls to the Secretary of State for Transport, Chris Grayling, MP and his Ministers, in particular Nusrat Ghani, and Parliamentarians to take the ideas of the report further and to begin to craft the legislation that it will, in some instances, require. In other instances, I trust that Parliament and the Department will lead the cultural change which is necessary to ensure that passengers, workers, operators and neighbouring authorities are treated fairly. I look forward to the Government’s prompt response to this report in order to maintain the momentum for improvement. Undue delay would risk public safety.’

5.2 Overall the recommendations of the Task & Finish Group are well considered and will, if implemented, improve the current framework that the taxi licence regime works within. It is therefore proposed that Members support the Task & Finish group recommendations and that the Committee write to the local MPs seeking their support for the report and asking them to promote it within Government.

6.0 RECOMMENDATION

Members are asked to consider the recommendations of the Department of Transport Task & Finish Group and to write to the local MPs seeking their support for the recommendation in the Task & Finish Group report and seeking their assistance in promoting the report and its recommendations within Parliament.

Background Papers - Nil

For further information please contact Alan Batty on 01636 655467

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