

GENERAL PURPOSES COMMITTEE

14 MARCH 2019

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 response of the Government to the recommendations of the Task & Finish Group on taxi and private hire vehicle licensing and to seek agreement for the responses to the draft Statutory Guidance on Hackney Carriages and Private Hire Vehicles.

2.0 Introduction

- 2.1 A Task & Finish Group was established by the Department of Transport to consider the current legislation relating to Hackney Carriages and Private Hire vehicles.
- 2.2 The recommendations of the Task & Finish Group were considered by the General Purposes Committee in November.

3.0 Background

- 3.1 In February 2019 the Department of Transport released its official response to the recommendations of the Task & Finish Group.
- 3.2 The report is in two parts. The first part sets out the broad summary of the Government's response. This is followed in the second part by a detailed narrative addressing each recommendation of the Task & Finish Group.
- 3.3 A fundamental part of the response is the creation of new draft statutory guidance on Hackney Carriages and Private Hire Vehicles. The Government are consulting on the draft statutory guidance and are seeking responses from Licensing Authorities.

4.0 The Report Recommendations

- 4.1 Extracts of the summary position of the Government are set out below. This is the followed by the Government's detailed response to some of the key recommendations

Above all other considerations the Task and Finish Group has put the passenger at the heart of its thinking; we welcome and share this view. Government will take action where needed to ensure a safe and well-functioning sector which meets the needs and expectations of its passengers.

Greater consistency and collaboration in regulation is needed to address the changes in the sector and the concerns of the public, the trade and of regulators themselves.

Government will consider further, with a view to legislation, the Chair's recommendation around tackling cross-border working, including how it might work in detail.

Government has already made commitments as part of its Inclusive Transport Strategy to work with licensing authorities to increase the availability of wheelchair accessible vehicles where demand is unmet; to prevent the refusal of wheelchair users and those travelling with assistance dogs; and to take strong action if such offences occur.

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.

We agree that the regulation of taxis and private hire vehicles needs reform. Government acknowledged that need in 2012 by asking the Law Commission to review the regulation of the sector and propose an updated legislative framework. The Commission published a report and draft Bill in May 2014.

We will set out in this response what legislation the Government proposes to take forward. In the short term this does not include a full replacement of the law which regulates taxi and private hire. It will, however, be important to fully consider this as part of work on the Future of Mobility¹, which will consider how Government can support new technology and innovation through regulatory frameworks which can evolve with time.

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.

The Government agrees that there should be national minimum standards for taxi and PHV licensing, and will take forward legislation when time allows to enable these.

In the interim, Government will continue to review its statutory and best practice guidance. The development of these, through engagement and consultation, will ultimately shape the content of national minimum standards.

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.

The Government welcomes this recommendation. Regardless of any current or future rules on cross-border working (see paragraphs 2.30 - 2.35), drivers will on occasion encounter licensing officers from other authorities.

We are aware of a number of authorities that already have this requirement as part of their licensing conditions and we would encourage other licensing authorities to do so too. Where drivers are working in an area other than that in which they are licensed, it should be expected that licensees comply with the reasonable requests of any licensing officers, assisting them in ensuring compliance with appropriate standards, and ultimately protecting passengers.

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.

There are clearly a range of views within the sector and interested parties about how cross-border, or out-of-area, journeys by taxis and PHVs should be permitted or restricted. This can clearly be seen in the range of views expressed by individual members of the TFG in their comments in the annex to the report.

Currently, a PHV journey can take place anywhere in England provided that the driver, vehicle and operator are licensed by the same licensing authority. However, the licensing requirements in different areas (for example, the training required of drivers or the vehicle standards set) can vary considerably.

Government therefore agrees with the principle of this recommendation, and will consider further (with a view to legislation) how it might best work in detail. In particular, Government will need to consider what size of area is appropriate. We will also consider what flexibilities or exemptions might be needed to reduce or avoid negative impacts on any particular business models, types of transport or passenger, and businesses or localities that are close to (perhaps multiple) licensing authority borders.

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.

The Department is aware that a number of licensing authorities operate a penalty points system to address minor infringements. We will engage with licensing authorities to establish if there is significant demand for a power to issue fixed penalty notices outside of London to assist in the enforcement of national minimum standards.

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.

Both the Jay and Casey Reports into child sexual abuse and exploitation noted the prominent role played by taxi and PHV drivers in a large number of cases of abuse. The Casey Report in particular uncovered what was described as "weak and ineffective arrangements for taxi licensing which leave the public at risk." To help reduce the risk posed to children and vulnerable individuals from harm by taxi and PHV drivers who seek to abuse their position of trust, section 177 of the Policing and Crime Act 2017 enables the Secretary of State to issue statutory guidance to licensing authorities on the exercise of their taxi and PHV licensing functions.

The TFG was invited to review the draft statutory guidance ahead of the public consultation, and it has now been published for consultation alongside this response. The Department is grateful to the organisations it engaged with while drafting the guidance for consultation, and we encourage all organisations and individuals with views on the guidance to respond to the consultation.

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.

It is the Department's view that CCTV (with targeted overt recording of audio instigated when either the passenger or driver deems necessary) provides additional public protection - to both passengers and drivers - providing a fuller objective record of events, assisting in identification of unacceptable and/or illegal behaviour by all occupants of the vehicle. As the TFG report identifies, ridesharing in taxis and PHVs is becoming more popular, introducing further risks as passengers are travelling in close proximity with strangers.

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:

The Government agrees with both parts of this recommendation, and they are included in the statutory guidance which has been issued for consultation alongside this response. In the longer term, they will be considered as part of national minimum standards.

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.

The Government agrees with this recommendation, and its view has been included in the statutory guidance which has been issued for consultation alongside this response.

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).

The Government supports the Private Member's Bill brought by Daniel Zeichner MP that would mandate licensing authorities to use such a database. The Government also welcomes the initiative of the LGA in setting up a voluntary database of drivers who have been refused or revoked licences. Any information obtained using data sharing methods like this must be used as an aid to local, independent decision making. The statutory guidance which is published for consultation alongside this response expands further on the Government's view.

In the longer term, the Government intends that information about drivers who have had licences refused or revoked would be one part of the wider-ranging national database discussed against the next recommendation (24).

Government will legislate for the creation of a national taxi and private hire database, as a necessary accompaniment to national enforcement powers. Development of the database will take account of the work undertaken for the identification of taxis and PHVs for charging Clean Air Zone purposes.

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.

The Government welcomes this recommendation and the acknowledgement that such a requirement can be universally applied under powers already available to licensing authorities.

The draft statutory guidance which has been issued for consultation alongside this response includes a recommendation that licensees should be required to undertake safeguarding/child sexual abuse and exploitation awareness training.

4.13 Recommendation 26

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.

The draft statutory guidance which has been published for consultation alongside this response recommends that those charged with determining taxi and PHV licensing matters undertake appropriate training.

In the longer term the Government intends that the requirement for training would be included in national minimum standards.

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.

The Government supports this recommendation. Taxis and PHVs play a vital role in enabling disabled people to travel where other modes may not be available or accessible. The Department has, in previous best practice guidance, encouraged licensing authorities to use their powers to improve drivers' awareness of the needs of disabled people including by undertaking disability awareness training. This training should include awareness of less visible impairments, such as learning disabilities and dementia.

In the longer term the Government intends that these training requirements will be included 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.

In 2017, the Government commenced sections 165 and 167 of the Equality Act 2010. Under Section 167 a licensing authority may publish a list of their licensed vehicles designated as wheelchair accessible; those vehicles are then required to apply the passenger protections in Section 165. These are to not charge more to a passenger in a wheelchair than to any other passenger, and to provide reasonable assistance (drivers may be exempted from the latter on medical grounds).

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.

In the first instance, in order to assess the scale of the issue, the Government will engage informally with sector stakeholders to determine whether it is possible to more accurately assess the hours drivers are working, and whether there is a trend for working more or excessive hours. The Government is mindful not just of road safety, but also of the need to avoid burdensome, yet difficult to enforce, regulation.

5.0 Proposals

- 5.1 As part of the Government's response it is consulting on the new statutory guidance that will support the current licensing regime and hopefully strengthen it for the future.
- 5.2 Officers have completed the response in draft and a copy is attached as **Appendix 1** (to follow). This needs to be submitted by April 2019.

6.0 RECOMMENDATIONS that:

- (a) **Members consider the response of the Department of Transport; and**
- (b) **Members consider the responses to the consultation on the draft statutory guidance and provide any additional responses.**

Background Papers

Task & Finish group on taxi and private hire vehicle licensing	Sept 2018
Dept of transport – Response to the Task & Finish Group	Feb 2019
Draft Statutory Guidance Dept. of Transport	Feb 2019

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