

Swindon Borough Council

Private Hire and Hackney Carriage Licensing Sub-Committee

Wednesday, 22 August 2012

Committee Room 1, Civic Offices (Anticipated meeting room)

At 5.30 p.m.

Conservative Councillors

Andrew Bennett
Doreen Dart
Emma Faramarzi
Richard Hurley

Labour Councillors

Junab Ali
Derique Montaut
Steve Wakefield

Committee Officer: Shaun Banks (Telephone 01793 463606)

sbanks@swindon.gov.uk

Swindon Borough Council, Civic Offices, Euclid Street, Swindon, SN1 2JH

(Telephone 01793 445500)

AGENDA

- 1. Appointment of Chair for the Municipal Year 2012/13**
- 2. Appointment of Vice-Chair for the Municipal Year 2012/13**
- 3. Apologies for Absence**
- 4. Declarations of Interest**
Members are reminded that at the start of the meeting they should declare any known interests in any matter to be considered, and also during the meeting if it becomes apparent that they have an interest in the matters being discussed.
- 5. Minutes** (Pages 1 - 2)
To receive the minutes of the meeting held on 20th March 2012.
- 6. Public Question Time**
See explanatory note below. Please phone the Committee Officer whose name and number appears at the top of this agenda if you need further guidance.
- 7. Law Commission Consultation - Reform of Taxi and Private Hire Services**
(Pages 3 - 66)

Date of Despatch: 14 August 2012

Public Question Time - Swindon Borough Council is committed to increasing its accountability to the public and to promoting active citizenship. Up to 15 minutes will be allowed at the start of all Council meetings for questions to the Chair from members of the public about the work of the Committee (except for confidential matters and specific planning applications). Questions must be relevant, clear and concise. Because of time constraints Public Question Time is not an opportunity to make speeches or statements. Prior notice of a question to the Director of Law and Democratic Services is desirable - particularly if detailed background information is needed.

Access Arrangements – The Venue is wheelchair accessible and an infrared receiver hearing system is provided. If you would wish to attend the meeting but have any special requirement to enable you to do so please contact the Committee Clerk above, as soon as possible prior to the date of the meeting.

If you would like to receive any of the pages contained in this agenda in a larger print size please contact the Committee Officer whose name appears on the first page of this agenda.

PRIVATE HIRE AND HACKNEY CARRIAGE LICENSING SUB-COMMITTEE

TUESDAY, 20 MARCH 2012

PRESENT:- Councillors Junab Ali, Rex Barnett, Mick Bray, Wayne Crabbe, Richard Hurley (Chair), Vera Tomlinson, Councillor Steve Wakefield.

Apologies for absence were received from Councillors Eric Shaw and David Wren.

10. Declarations of Interest

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

11. Minutes

Resolved – That the minutes of the meeting held on 22nd February 2012 be confirmed and signed.

12. Public Question Time

No public questions were received during the meeting.

13. Hackney Carriage and Private Hire Vehicle Inspections

The Sub-Committee considered a report of the Interim Director Planning and Transport, Environment, Regeneration and Community, setting out a proposed vehicle inspection criteria for Hackney Carriage and Private Hire vehicles.

Resolved – (1) That the Hackney Carriage and Private Hire vehicle checklist attached to the report of the Interim Director Planning and Transport, Environment, Regeneration and Community, be approved and adopted.

(2) That the Council's Licensing Officer be granted delegated authority to refuse any vehicle after inspection if in his/her opinion the vehicle does not meet the approved criteria.

(3) That, further to (2) above, an appeal panel, comprising three members of this Sub-Committee, be authorised to consider an procedural complaints relating to the inspection process.

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Law Commission Reform of Taxi and Private Hire Services

Private Hire and Hackney Carriage Licensing Sub-Committee

Date: 22nd August 2012

Author:	Head of Highways and Transport
Wards:	All Wards
Locality Affected:	All Localities
Parishes Affected:	All Parishes

1. Purpose and Reasons

- 1.1 The Law Commission for England and Wales, which advises the Government on law reform, has launched a public consultation seeking views on proposed changes to the way in which taxis and private hire vehicles (often referred to as minicabs) are regulated.
- 1.2 Officers have made recommendations on technical issues and the document as a whole through their National Association, see Appendix C.
- 1.3 This report is to give members the opportunity to comment on the consultation document proposals from the Law Commission, the consultation concludes on the 10th September 2012.

2. Recommendations

The Committee is recommended to:

- 2.1 Note the recommendations made by officers in regard to the proposals as set out in Appendix C.
- 2.2 Consider the consultation document and make recommendations for inclusion in a Council response.

3. Detail

- 3.1 The Law Commission is undertaking a review investigating the Reform of Taxi and Private Hire Services.
- 3.2 A copy of the consultation paper No 203 Reforming the Law of Taxi and Private Hire Services has been forwarded to the Council's three political groups and two copies have been placed in the Members Room
- 3.3 The Swindon Disability Coalition and contacts for the local Private Hire and Hackney Carriage trade have been advised of the consultation in July 2012. In addition officers have reminded these bodies that the consultation period ends on 10th September 2012 should they wish to submit separate responses.

Further information on the subject of this report can be obtained from Michael Shears, Direct Dial Telephone Number (01793466208), mshears@swindon.gov.uk.

Law Commission Reform of Taxi and Private Hire Services

Private Hire and Hackney Carriage Licensing Sub-Committee

Date: 22nd August 2012

- 3.4 Members are asked to consider the consultation document and make recommendations on a Borough Council response.

4. Alternative Options

- 4.1 Members may suggest alternatives to the proposals as set out in Appendix C

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 There are no direct financial implications arising from this report.

- 5.2 There are no procurement issues arising from this report

Legal and Human Rights Implications

- 5.3 There are no legal or human rights implications arising from this report.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.4 No assessment has been made as this is a Law Commission consultation document.

Links to One Swindon, Strategic Objectives, Plans and Policies

- 5.5 This report relates to the Council's Licensing function.

Diversity Impact Assessment

- 5.6 A copy of an Impact Assessment from the Law Commission has been appended to the report. No separate Diversity Impact Assessment has been made as this report relates to a consultation. The Swindon Disability Coalition has been advised of the consultation should they wish to make representations.

Risk Management

- 5.7 No Risk Management Assessment has been undertaken as this would be the subject of a report on any policy changes following the Law Commission review.

6. Consultees

- 6.1 The Board Director Finance, Revenues, Benefits and Property (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

Further information on the subject of this report can be obtained from Michael Shears, Direct Dial Telephone Number (01793466208), mshears@swindon.gov.uk.

Law Commission Reform of Taxi and Private Hire Services

Private Hire and Hackney Carriage Licensing Sub-Committee

Date: 22nd August 2012

7. Background Papers

7.1 Consultation paper No 203 Reforming the Law of Taxi and Private Hire Services

8. Appendices

8.1 Appendix A – Summary of the Law Commission Review “Reforming the law of Taxi and Private Hire Services

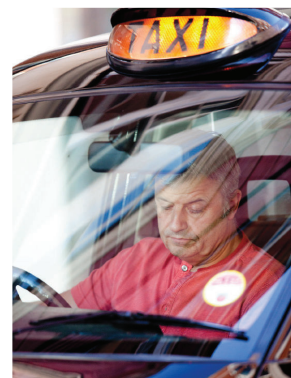
8.2 The Impact Assessment carried out by the Law Commission regarding the review.

8.3 Appendix C List of Law Commission Proposals and answers

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Reforming the law of taxi and private hire services



Law Commission

REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

Summary

This paper is a summary of the full Consultation Paper, Reforming the Law of Taxi and Private Hire Services, Law Com 203, available at our website at www.lawcom.gov.uk (A-Z of project > Taxi and Private Hire Services).

THE LAW COMMISSION: HOW WE CONSULT

About the Commissions: The Law Commission was set up by section 1 of the Law Commissions Act 1965. The Commission has the purpose of promoting reform of the law.

The Law Commissioners are: The Rt Hon Lord Justice Munby (Chairman), Professor Elizabeth Cooke, Mr David Hertzell, Professor David Ormerod and Frances Patterson QC. The Chief Executive is Elaine Lorimer.

Topic: This consultation covers the reform of the law on taxi and private hire services.

Geographical scope: England and Wales

An impact assessment is available on our website.

Duration of the consultation: 10 May to **10 August 2012**.

How to respond

Send your responses either –

By email to: tph@lawcommission.gsi.gov.uk or

By post to: Public Law Team (Taxi and Private Hire), Law Commission,
Steel House, 11 Tothill Street, London SW1H 9LJ
Tel: 020 3334 0266 / Fax: 020 3334 0201

If you send your comments by post, it would be helpful if, where possible, you also sent them to us electronically (in any commonly used format).

After the consultation: We plan to publish a final report with a draft Bill in November 2013. It will be for Parliament to decide whether to change the law.

Freedom of information: We will treat all responses as public documents. We may attribute comments and publish a list of respondents' names. If you wish to submit a confidential response, it is important to read our Freedom of Information Statement on the next page.

Availability: You can download this consultation paper and the other documents free of charge from our website at:

<http://www.lawcom.gov.uk> (See A–Z of projects > Taxi and Private Hire Services)

SUMMARY

INTRODUCTION

- 1.1 In July 2011, the Law Commission agreed to undertake a law reform project on the law of taxis and private hire vehicles. The project was proposed by the Department for Transport, but when we work on a project, the Law Commission is independent of the Government. This paper summarises our full consultation paper, which is available at <http://www.lawcom.gov.uk> (see A-Z of projects > Taxi and Private Hire Services). It reviews the law, and makes provisional proposals for reform. We now seek your comments and views on our provisional proposals and questions.
- 1.2 This summary is split into three main sections:
- (1) an introduction and outline of key proposed changes;
 - (2) the case for reform and a brief discussion of the main themes and impact assessment; and
 - (3) a full list of our provisional proposals and questions.

WHAT THIS PROJECT IS ABOUT

- 1.3 In England and Wales, both taxis and private hire vehicles must be licensed. There is a fundamental legal distinction between taxi and private hire services. Taxis, referred to as “hackney carriages” in much of the legislation, can be hailed on the street or work at a rank for immediate hire. Only taxis can do this, which is referred to in law as “plying for hire”. Alternatively, taxis can be booked in advance either directly with the driver or through a third party without the need for an additional licence. By contrast private hire vehicles cannot “ply for hire” and can only be booked in advance. Private hire drivers cannot take bookings directly and can only take passengers that have booked through a licensed operator. A person engaging in any of these activities without the correct licence is committing a criminal offence.

Consultation

- 1.4 It is of primary importance that the views expressed in our consultation documents are only provisional, so that they can form the basis of a discussion on consultation. We are not firmly wedded to any of these proposals. Indeed, experience suggests that our final report is likely to differ substantially from the provisional proposals we now make.
- 1.5 This consultation period will be our main evidence-gathering exercise, and the only opportunity for the public to directly provide their views. After this consultation we will analyse responses and reconsider our proposals. We aim to produce a report with our final proposals and a draft Bill by November 2013.
- 1.6 The opportunity to discuss the issues with interested parties is always most helpful. We would therefore welcome invitations to attend or present at relevant conferences, seminars, workshops or other events during the consultation period.

Our approach

- 1.7 Our terms of reference require us to give due regard to the potential advantages of deregulation. This does not require us to blindly pursue deregulation at all costs. Nor does it mean the removal of all or even most regulation. Rather, it means that we must look at each element of the existing regulatory system to ensure that it does not impose unnecessary costs on the industry, and that it is structured in the right way to accomplish its supposed ends.
- 1.8 We have applied this view of the right regulatory approach in the provisional proposals and questions we ask in this review. The overall effect is of a moderate reform programme, which retains much of the existing structure of regulation, while seeking to improve and simplify it.

OUTLINE OF KEY PROPOSED CHANGES

- 1.9 The main changes that might follow from our provisional proposals include:
- (1) National minimum safety standards for both taxis and private hire vehicles.
 - (2) Changes to standard-setting: additional local standards, above the national standards, would continue to apply to taxis (for example, topographical knowledge and vehicle requirements). However, for private hire vehicles, only the national standards would apply and there would be no scope for additional local standards. However we ask about possible exceptions where local private hire standards may be retained, for example, in respect of signage.
 - (3) It would be easier for private hire services to operate on a national basis. We suggest private hire operators would no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by the same licensing authority. Sub-contracting would be allowed, as is already the case in London.
 - (4) London would be regulated under the same flexible framework as the rest of England and Wales.
 - (5) Licensing authorities could no longer limit the number of taxi licences.
 - (6) More enforcement powers for licensing officers against out-of-borough vehicles and drivers.
 - (7) Disability awareness training for drivers.
 - (8) Introduction of a statutory definition of “plying for hire” (but without changing it in substance).
 - (9) Weddings and funeral cars would no longer be exempted through primary legislation.
 - (10) Allowing leisure use of taxis and private hire vehicles.
 - (11) Bringing more vehicles within the licensing system (including for example limousines, motorbikes and pedicabs) – but giving the Secretary of State

and Welsh Ministers power to make exclusions, and to set separate standards, in respect of different categories of vehicle.

- (12) Clearer exclusions for volunteers and other services where transport is not the main service provided, such as childminders.
- (13) Powers for government to issue binding statutory guidance to create greater consistency in how taxi and private hire legislation is applied.

1.10 We also ask questions about the following:

- (1) a new category of wheelchair accessible vehicles;
- (2) extending operator licensing to taxi radio circuits;
- (3) possible use of the term “taxi” in respect of private hire services if used in phrases like “pre-booked taxi only”;
- (4) reintroducing a (revised) contract exemption;
- (5) improving the enforcement powers of licensing officers; and
- (6) a new “peak time” taxi licence that could only be used at particular times of day as decided by the licensing authority.

1.11 This list only provides simplified, headline points and does not include all the changes we propose. Some of the provisional proposals would not give rise to change in London, such as allowing sub-contracting and leisure use of vehicles.

THE NEED FOR REFORM

1.12 The law on taxis and private hire vehicles is fragmented, complex, and out of touch with 21st century life. The oldest taxi legislation that still applies dates from 1831 and the regime has been extended, amended and adapted ever since. Private hire vehicle legislation was not introduced until 1976 (1998 in London), in response to growth in the unlicensed trade, and many regard it as hastily constructed and ill thought out.

1.13 Both taxi and private hire services are highly regulated. The pre-booked market is reasonably competitive. Customers can shop around for the provider they prefer and negotiate on price. A customer who is unhappy with the service given by a company can choose a different firm in the future. They may tell their friends to avoid that firm. The same competitive forces do not apply in respect of taxis. Ranking and hailing are not competitive markets. The customer has little choice but to take the taxi hailed or the first taxi at the rank. This can affect the justification for the level of regulation in each market.

1.14 Safety is a key justification for the licensing system as a whole yet there are no national minimum safety standards for drivers and vehicles. Licensing officers have limited enforcement powers which makes it hard for them to make sure the rules are complied with. Disability groups have highlighted significant problems in ensuring accessibility and the safety of disabled passengers.

1.15 There are aspects of the current system, including quantity restrictions on taxi

licences and restrictions on cross-border activity, which can also hinder effective competition. Not only can this make taxi and private hire services more expensive than they need to be, but it also has a restrictive effect on business. Our proposals are aimed at simplifying and streamlining the legal framework and removing unnecessary and burdensome regulation.

- 1.16 The complexity of the regulatory regime, which is based on numerous pieces of legislation, and the piecemeal way in which it has been put together, have left many key concepts and distinctions unclear and difficult to apply. There are many grey areas about what can count as a taxi (can it cover pedicabs for example?) or a private hire vehicle (do child minders and volunteers need a private hire operator licence where they drive as part of their work?). The rules restricting operators to inviting or accepting bookings only within their licensing area do not fit easily with technological developments such as internet and mobile phone bookings. These apparently basic questions have no clear answer and different approaches are taken in different parts of England and Wales.

THE MAIN THEMES OF REFORM

A new statute for taxi and private hire services

- 1.17 Our aim is to clarify and simplify the existing law on taxis and private hire vehicles and to promote more consistency in bottom-line safety standards across England and Wales, including better provision for disabled passengers. The other key aim of this review is to deregulate aspects not linked to protecting public safety in order to encourage more competitive services. We propose to do so by recommending a new Act of Parliament for taxi and private hire services.
- 1.18 We are not proposing major changes to the way in which licensing is administered and enforced. As now, local authorities would be responsible for issuing licences, and for taking action (with the police) against those who break the law. In respect of taxis, local authorities would continue to have a standard-setting role, over and above the national minimum safety standards. Matters such as topographical knowledge, fares and local requirements (such as the turning circle requirement in London) could continue to apply.

Retaining a two tier system

- 1.19 We think that the legal differences between taxis and private hire vehicles (often known as mini-cabs) are worth keeping. This is sometimes referred to as the two tier system. The alternative, a so-called one tier system, would have a unified category of licensed vehicle doing all (or most) of the same work – pre-booked, hailing and ranking. We accept that the differences between taxis and private hire vehicles are not always well understood by the public, and that this provides an argument for a single tier. But our provisional view is that the distinction between taxis and private hire allows for more targeted regulation. Traditionally taxis can have regulated fares and local requirements like topographical knowledge can be very important. By contrast, private hire services work much more like a free market and recognising the legal distinction means both sides of the trade can work better.

London

- 1.20 There is currently a different legal framework for London. We recognise the

important differences which apply to London but also think that our provisional proposals are sufficiently flexible to allow for these differences given the powers we propose for the Secretary of State and Transport for London (as the relevant licensing authority). We believe this can be done without affecting the distinctive and iconic London black cab.

- 1.21 We propose that our reforms should apply throughout England and Wales including London. We also invite views about how London may be affected differently in respect of all of our provisional proposals and questions.

Welsh devolution

- 1.22 We think the same system should apply in Wales as in England, but, in light of devolution, Welsh Ministers would have the powers that the Secretary of State has in England.

Taxis and the local connection

- 1.23 We provisionally propose only moderate changes to the regulation of taxis apart from removing licensing authorities' ability to limit taxi numbers. We suggest retaining the local link with the setting of taxi conditions and fare regulation, licensing and enforcement. We consider the legal definition of "plying for hire", which covers hailing and ranking, but do not propose radical change.
- 1.24 We do, however, provisionally propose that the Secretary of State and Welsh Ministers should set national *minimum* safety standards. We think all consumers of taxi services should be entitled to the same minimum safety standards, even if local licensing authorities wish to impose higher standards in their area. And establishing national minimum standards, which match the national standards for private hire vehicles (see below), will remove incentives for drivers to try to play the system by being licensed in areas with lower standards. It will also help with the enforcement of conditions across each country.

Taxis and quantity restrictions

- 1.25 We also provisionally propose that the power to limit the number of taxis which can be licensed in a licensing area should be removed. We accept that there are some good arguments for retaining the power (although not on the existing basis of a bureaucratic assessment of unmet demand), but provisionally consider that on balance quantity regulation is not justified. Transport for London does not have the power to limit the number of taxi licences, so our provisional proposal makes no change for the capital.

Private hire and national standards

- 1.26 Our provisional proposals are more far-reaching in respect of private hire licensing. We think that the Secretary of State and Welsh Ministers should set national standards for private hire vehicles, drivers and operators, and that licensing authorities should not have the power to impose higher standards. This reflects our view that the pre-booked market works reasonably well as a competitive market, and so there is no need for rules and regulations to guarantee quality or control fares. We ask if there should be an exception to allow local standard setting about signage. Local licensing authorities would continue to issue licences and to be responsible for enforcement. We also look at whether

operator licensing should be extended to cover, for example, taxi radio circuits.

- 1.27 We propose that the national standards for private hire vehicles should be set at the same level as the minimum standards for taxis. Both in respect of taxis and in respect of private hire vehicles, the power to set standards would allow for different standards to be set for different descriptions of vehicles.

Cross-border

- 1.28 Our provisional proposals aim to clarify the ability of private hire operators to work cross-border. We suggest that operators should no longer have to use drivers and vehicles all licensed with the same authority, enhancing the ability of business to work more efficiently, as well as permitting sub-contracting (adopting the current position in London). The location where a booking is accepted would no longer be critical, which would fit better with technological developments in mobile technology and the internet.
- 1.29 Our provisional proposals in respect of more effective enforcement and common bottom-line safety standards could help reduce incentives for drivers to seek taxi licences in locations far away from where they actually intend to work on a purely pre-booked basis (akin to a private hire vehicle). We do not propose to introduce a return-to-area requirement for vehicles dropping off customers outside their licensing area.

Increased enforcement powers

- 1.30 We make provisional proposals to improve enforcement of conditions. We suggest improving licensing officers' powers; and ask about the effectiveness of tougher sanctions such as impounding vehicles.
- 1.31 The existence of national standards for private hire and minimum standards for taxis should itself make enforcement easier, particularly cross-border enforcement (that is, enforcement by an officer of a licensing authority other than that which licenses the taxi or private hire vehicle).
- 1.32 We also make proposals designed to improve cross-border enforcement, and look at the extent to which enforcement officers' powers could be strengthened.

Equality and accessibility

- 1.33 Taxis and private hire vehicles provide vital transport links for many older or disabled persons as well as people with reduced mobility. Providers of transport services have a legal obligation not to discriminate against disabled people, and local authorities are subject to a duty to promote equality in the exercise of their functions.
- 1.34 We consider how to promote safety for disabled passengers through, perhaps, introducing a separate licence category for wheelchair accessible vehicles and vehicles adapted for other disabilities. We considered the merits of introducing national quotas of accessible taxis but suggest that such a system does not appear workable. Our provisional proposals include compulsory disability discrimination training for taxi and private hire drivers.
- 1.35 This is only an extremely short account of our provisional proposals, which cover

a number of other detailed areas, including hearings and appeals.

IMPACT ASSESSMENT

- 1.36 This consultation also includes an impact assessment and we ask consultees for information about the costs and financial benefits likely to arise from different aspects of the review.
- 1.37 Our expectation is that the review as a whole will be deregulatory, and it will be important to understand the extent of likely savings. Where some new regulatory pressures arise (for example in respect of accessibility or licensing of limousines) it will be equally important to understand how large those new burdens are likely to be. The impact assessment is available at <http://www.lawcom.gov.uk> (see A-Z of projects > Taxi and Private Hire Services).

LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

- 1.38 The list below sets out our provisional views for consultation. They are divided between provisional proposals, where the Law Commission has a preliminary stance and is seeking views on it, and open questions where we are seeking more evidence and have not reached a preliminary position.
- 1.39 It would be helpful if you could give us your views on the provisional proposals and questions we ask, as well as on any other areas you feel are important. The page numbers refer to the full consultation paper which has more detail.

LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

OVERVIEW OF PROVISIONAL REFORM PROPOSALS

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. *(Page 160)*

REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. *(Page 162)*

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. *(Page 164)*

Question 4

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

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. *(Page 165)*

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. *(Page 166)*

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. *(Page 167)*

Provisional proposal 8

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. *(Page 168)*

Question 9

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

- (a) carpooling; and
- (b) members clubs? *(Page 170)*

Provisional proposal 10

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

Provisional proposal 11

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

Question 12

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

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets". *(Page 175)*

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? *(Page 177)*

Provisional proposal 15

The defining feature of taxis, the concept of "plying for hire", should be placed on a statutory footing and include:

- (a) references to ranking and hailing;
- (b) a non-exhaustive list of factors indicating plying for hire; and
- (c) appropriate accommodation of the legitimate activities of private hire vehicles. *(Page 181)*

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. *(Page 181)*

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”?
(Page 182)

Provisional proposal 18

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

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. (Page 183)

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.
(Page 184)

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements.
(Page 185)

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned.
(Page 185)

Question 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion? (Page 186)

A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

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

Provisional proposal 25

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

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. *(Page 189)*

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers. *(Page 190)*

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? *(Page 190)*

Question 29

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

Question 30

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

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety. *(Page 192)*

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. *(Page 193)*

Question 33

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

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. *(Page 193)*

Question 35

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

Question 36

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

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? *(Page 195)*

Provisional proposal 38

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

Provisional proposal 39

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

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? *(Page 197)*

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. *(Page 198)*

Provisional proposal 42

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

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares. *(Page 200)*

Question 44

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

REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING**Question 45**

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions? *(Page 203)*

Provisional proposal 46

Vehicle owners should not be subject to "fit and proper" tests and the criteria applied would relate solely to the vehicle itself. *(Page 204)*

Question 47

Should national vehicle safety standards be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions? *(Page 205)*

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. *(Page 206)*

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? *(Page 208)*

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. *(Page 209)*

Question 51

Should "fit and proper" criteria in respect of operators be retained? *(Page 209)*

Provisional proposal 52

Operators should be expressly permitted to sub-contract services. *(Page 210)*

Question 53

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

REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers. *(Page 213)*

Question 55

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

Question 56

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

TAXI AND PRIVATE HIRE REFORM AND EQUALITY

Question 57

Should there be a separate licence category for wheelchair accessible vehicles? This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. *(Page 217)*

Question 58

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

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? *(Page 217)*

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. *(Page 218)*

Provisional proposal 61

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

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. *(Page 219)*

Question 63

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

REFORMING ENFORCEMENT

Question 64

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

Question 65

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

Question 66

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

Question 67

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

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. (Page 225)

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? (Page 226)

REFORM OF HEARINGS AND APPEALS

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. (Page 230)

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. (Page 231)

Provisional proposal 72

Appeals should continue to be heard in the magistrates’ court. (Page 232)

Question 73

Should there be an onward right of appeal to the Crown Court? (Page 233)

CONCLUSION

- 1.41 It is not possible in a summary of this length to introduce all of our provisional proposals. Consultees are therefore encouraged to refer to the full Consultation Paper available on our website. Please send responses by **10 August 2012**.

How to respond

Send your responses either -

By email to: tph@lawcommission.gsi.gov.uk or

By post to: Public Law Team (Taxi and Private Hire), Law Commission, Steel House, 11 Tothill Street, London SW1H 9LJ

Tel: 020 3334 0266 / Fax: 020 3334 0201

If you send your comments by post, it would be helpful if, where possible, you also sent them to us electronically (in any commonly used format).

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Title: Reforming the law of taxi and private hire services IA No: LAWCOM0016 Lead department or agency: Law Commission Other departments or agencies: Department for Transport	Impact Assessment (IA)	
	Date: 13/07/12	
	Stage: Consultation	
	Source of intervention: Domestic	
	Type of measure: Primary legislation	
	Contact for enquiries: Jessica Ugucioni 020 3334 0263	
Summary: Intervention and Options		RPC Opinion: RPC Opinion Status

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as
£120.76 m	£m	£m	No	NA

What is the problem under consideration? Why is government intervention necessary?

Legislation governs the regulation of the 78,000 licensed taxis and 155,100 licensed private hire vehicles (PHVs) in England and Wales in 2011. There are numerous Acts governing the industry, some of which date back to 1831. The legislative framework is not suited to the modern environment in which taxis and PHVs operate. There is complexity and a lack of clarity within the legislation that both allows and encourages infringement of the regulations. Further, the structure of regulation is fragmented. Most taxis and PHVs are owner-operated micro businesses. Inefficient law imposes unnecessary costs.

What are the policy objectives and the intended effects?

The policy objectives are (1) the simplification and modernisation of the legal framework within which taxis and PHVs operate with a view to reducing unnecessary burdens on business; (2) greater transparency and consistency of approach in related decision making; (3) future-proof, flexible legislation allowing for development and innovation in areas such as transport technology and business models; and (4) extension and clarification of enforcement powers. The intended effects are to create a more effective taxi and private hire market, in which competition is not distorted and one which is better incentivised to contribute to local transportation requirements. The review is underpinned by a deregulatory objective.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 0: Do nothing

Option 1: Reformed two-tier system (moderate reform). The distinction between taxis and PHVs is maintained allowing for targeted and proportionate regulation. PHVs are placed on a national footing with mandatory standards and licensing is still administered by local authorities. Taxis remain more local in focus, with local authorities able to impose conditions. Quantity restrictions are removed.

The preferred option 1 retains the regulatory distinction between taxis and PHVs whilst enabling an appropriate balance of local and national standard-setting.

Will the policy be reviewed? It will not be reviewed. If applicable, set review date: Month/Year

Does implementation go beyond minimum EU requirements?			Yes		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro No	< 20 No	Small No	Medium No	Large No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:		Non-traded:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: _____ Date: _____

Summary: Analysis & Evidence

Policy Option 1

Description: Reformed two-tier system (moderate reform)

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £79.47	High: £378.10	Best Estimate: £120.76

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£15.17	1-5	£1.12	£24.46
High	£79.82.		£4.78	£119.59
Best Estimate	£69.79		£4.78	£109.50

Description and scale of key monetised costs by 'main affected groups'

Transitional Costs: Taxi/PHV drivers (incumbent) – training - £69,650,000 (best estimate); training costs for licensing officers, £137,484 (best estimate);

On-going costs – Training for Licensees - £4,776,000 (best estimate)

Other key non-monetised costs by 'main affected groups'

Existing taxi drivers operating in areas with entry controls may experience some productive efficiency loss.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	£0	0	£12.50	£103.93
High	£0		£59.84	£497.69
Best Estimate	£0		£27.69	£230.26

Description and scale of key monetised benefits by 'main affected groups'

On-going benefit: Taxi users - Reduced waiting time, £1,987,960 (best estimate) ;Taxi trade - Reduced regulatory burden, £25,000,000 per year (best estimate); Removal of unmet demand survey, £620,000 per year (best estimate); Reduced assaults on taxi drivers.

Licensing bodies – Reduced enforcement expenditure and legal costs.

Other key non-monetised benefits by 'main affected groups'

Taxi users – improved social inclusion; improved safety standards enabling increased user confidence; potential for reduced fares.

Court system – improved understanding of licensing arrangements and reduced case load with reduced number of enforceable activities.

Key assumptions/sensitivities/risks	Discount rate (%)
Assumptions: (1) Quantity controls are gradually removed with a managed approach. The premium value is reduced to zero over a 5 year period as entry controls are removed. (2) 20,450 taxi vehicles are estimated to operate in the 93 areas with entry controls. (3) 250,000 full-time equivalent taxi/PHV drivers. Sensitivities: (1) The estimated cost of an unmet demand survey is £15,000 (low), £20,000 (best) and £40,000 (high); (2) Taxi/PHV total Industry revenue ranges from £4.3 bn - £5.6 bn, £5.0 bn (best estimate) .Risk: Industry revenue value is over-estimated reducing the scope for savings.	3.5

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs:	Benefits:	Net:	No	NA

EVIDENCE BASE

INTRODUCTION

This review, suggested by the Department for Transport, undertakes a root and branch approach to reforming the regulatory framework governing taxis and private hire vehicles. The term taxi generally refers to the two main types of licensed vehicles – hackney carriages (the legal term for taxis), which undertake hail and rank work but can also do pre-booked work, and private hire vehicles, which can only undertake pre-booked work. Taxis and private hire vehicles are a staple aspect of the transport network in England and Wales, and indeed in most countries throughout the world. Such point to point services are essential for passengers with disabilities or who live in rural communities and play an important social role enhancing the provision of the public transportation system and facilitating social inclusion

Our terms of reference are to review the law relating to the regulation of taxis and private hire vehicles, with a view to its modernisation and simplification. We consider the potential advantages of de-regulation in reducing the burdens on business and improving the potential for competitive conditions which is of benefit to both the taxi trade and taxi users. We have taken a broad view of our remit, and have looked at the extent to which non-standard vehicles such as limousines, pedicabs and novelty vehicles fall within the licensing regime.

In 2010 an estimated £2.585 billion¹ was spent by UK households on taxi journeys, of which approximately 80% relates to England and Wales.² As this figure excludes business and tourist receipts it under-estimates the full value of the commensurate industry revenue, but nonetheless it is a useful indicator of the minimum revenue size. The Department for Transport's latest statistics indicate there are nearly 300,000 licensed taxi and private hire vehicle drivers in England and Wales driving 78,000 taxi vehicles and 155,000 private hire vehicles.³ There is a clear geographical difference between the number of vehicles operating in London and numbers in all other regions outside of London. London, with an estimated 29 percent of taxis and 33 percent of all private hire vehicles, accounted for a disproportionately large share of industry activities in 2011.

Background to the problem

The market is heavily regulated. Both taxis and private hire vehicles are required to adhere to standards imposed by local licensing authorities. This includes the safety and quality of vehicles and drivers, and such matters as the colour, appearance and signage on vehicles. In addition, taxis are subject to price regulation and, in some areas, to limits on numbers. The oldest taxi legislation that still applies dates from 1831 and the regime has been extended, amended and adapted ever since. Not only is the terminology often outdated, where statutes of the Victorian era and before envisage vehicles such as hackney carriages and charabancs, but the legislation is often out of touch with modern practice. This potentially imposes constraints on future developments where it is unable to adapt. Private hire vehicle legislation was not introduced until 1976 (1998 in London), in response to growth in the unlicensed trade, and many regard it as hastily constructed and ill thought out.

Licensing is undertaken by local authorities within a framework of almost exclusively national legislation. The legislation has developed in a piecemeal fashion and has frequently failed to take into account existing regulation, the regulation of other sectors or the possibility of future developments.

The confusing nature of the legislation may create a chilling effect on regulators' actions. Where licensing authorities are unsure of their powers and duties they may unduly refuse to licence a vehicle, put in place a restrictive policy or fail to enforce against illegal vehicles and drivers. Where a driver or operator is unclear as to what they can or cannot do, they may unwittingly break the law or hesitate in expanding their business for fear of legal repercussions.

¹ <http://www.ons.gov.uk/ons/rel/consumer-trends/consumer-trends/q1-2011/index.html> (last visited 18 May 2012).

² <http://www.ons.gov.uk/ons/rel/pop-estimate/population-estimates-for-uk--england-and-wales--scotland-and-northern-ireland/population-estimates-timeseries-1971-to-current-year/index.html> (last visited 17 April 2012)

³ DfT, Taxi and Private Hire Statistics 2011, at <http://assets.dft.gov.uk/statistics/releases/taxi-private-hire-vehicle-statistics-2011/taxi-2011.pdf> (last visited 20 February 2012). The statistics apply as at 31 March 2011.

The uncertainty created by confusing legislation imposes costs on micro businesses. The vast majority of taxi services are owner-operated, the low barriers to entry making this an attractive option for self-employment. However, the regulatory burden imposed through unclear regulation significantly increases the average operating cost. For example, grey areas in private hire licensing may put off volunteers or child minders from providing valuable services to the community or unnecessarily adding costs; differing views about the appropriate scope of cross-border can result in licensing authorities requiring licensing in multiple districts or imposing additional burdens such as the establishment of a separate office within their licensing area. Earnings are also adversely affected by illegal operators – taxi touts and the like - who exploit the uncertainty created by complex rules.

The enforcement powers available to licensing officers are also limited. Sometimes this is as a result of the fragmented and local nature of the licensing system; for example, licensing officers cannot take action against the license of a non-compliant vehicle or driver from another area. Sometimes it is simply because officers' powers are not sufficiently robust and available sanctions do not provide an appropriate deterrent.

Problem under consideration

Fragmentation and complexity of the legal framework

The body of law which applies to the licensing of taxis has evolved in a piecemeal fashion over more than a century and a half. There are over 250 different pieces of legislation governing taxis.⁴ The earliest law governing taxis which remains in force applies in London only and dates back to 1831.⁵ This legislation has continued to be extended and amended,⁶ and qualified by secondary legislation,⁷ since that time.

There are, broadly speaking, two licensing regimes. These apply differently across three separate geographical areas. Not only does this give rise to unmerited inconsistency, but in developing regulation little thought has been given to the overlap with existing and future regulation. Furthermore, the boundaries between different regulatory regimes are not always clear; for instance, that between private hire vehicles and public service vehicles.

Inconsistencies in the legal framework

Inconsistencies arise in two ways. First, due to the piecemeal and fragmented development of legislation in this area, and secondly, due to the broad variations in licensing practice which exist between licensing authorities. This has a chilling effect not only on licensing authorities and their activities, but also on those who wish to expand and develop their businesses.

Outdated and inflexible law

Although we recognise that the age of legislation does not necessarily render it useless, it can lead to the ossification of the law. Although it has allowed for a great deal of flexibility, the current definition of a taxi or "hackney carriage", as it is known legally, bears little resemblance to modern vehicles. References to stage coaches and other old-fashioned vehicles within the definition have had, perhaps, an unnecessarily restrictive effect. It is not only the Victorian legislation which suffers; the far more modern private hire regime was designed on the basis of bookings made in person in a designated office, and has struggled to cope with developments such as the mobile telephone and the internet.

Costly and inefficient legal procedure

The problems engendered by the issues outlined above often result in unnecessary expenditure. This is particularly true for litigation, of which there has been a great deal. Were the definitions and powers of local authorities clearer, there would be far less need for cases to go to court. Local authority expenditure on court cases is very high, and this also incurs costs in the justice system. Those within the trade are often subject to considerable costs by virtue of policies and conditions put in place by licensing authorities.

Lack of clarity also imposes costs on Government. The Department for Transport has issued a number of guidance notes in recent years, as well as circulars and ad hoc advice to stakeholders. Many of these notes have been

⁴ Sources collated by NALEO, The Book, indicate that as of 10 February 2011, there are 261 pieces of legislation affecting taxis and private hire vehicles.

⁵ London Hackney Carriage Act 1831.

⁶ The primary legislation includes the London Hackney Carriage Acts of 1831, 1833, 1843, 1850 and 1853, Metropolitan Public Carriage Act 1869, London Cab Acts of 1896 and 1968 and London Cab and Stage Carriage Act 1907.

⁷ See in particular London Cab Order 1934, as amended.

intended to encourage greater consistency between licensing authorities or to provide clarity on complex areas of the law. Our proposals would bring about greater consistency, both through the setting of national minimum safety standards, the removal of geographical variations for private hire vehicles and the issuance of binding statutory guidance. This should reduce the need for government intervention and advice.

Rationale for intervention

In both the private hire and taxi markets, the vast majority of drivers are self-employed, and most own their own vehicle. However, on the private hire side, both as a matter of practice and of law, the consumer deals with the operator, not individual drivers. In the pre-booked market, there is a very diverse range of market providers, from big regional operators like Addison Lee or Delta to small local operators and independent driver/operators. On the taxi side, radio networks take pre-bookings for taxis and independent taxi drivers may also take pre-booked work directly.

When pre-booking, consumers can shop around for the best deal in selecting their ride. The normal market mechanism of advertising operates, providing consumers with information on quality and price. Competition can be on the basis of offering a better price, or in respect of features which consumers would be willing to pay for if given a choice. A consumer who is a repeat player may try various providers, and make an informed decision based on factors important to him or her. A consumer can in future avoid an operator if he or she is unsatisfied with the quality of car or driver. This might include a cheaper price, better perceived safety features, or purely quality based considerations such as the comfort of the vehicle or its appearance, and customer service.

By contrast, in the taxi hailing and ranking markets, competitive market forces cannot work effectively. Since a consumer is unlikely to get in the same cab twice through either hailing or going to a rank, taxis have no incentive to raise standards (at least beyond a minimum mandated by regulation). Raising standards is a cost to each individual taxi yet they are not in a position to reap the benefits. This is because the next taxi may not adopt these higher standards and consumers have no obvious way of distinguishing between them. This means that innovation and improvement of standards in matters such as safety and quality, and cheaper prices, will not happen as a result of competition in the taxi market even if consumers have a demand for it.

In the on-street hail market, once a cab has been stopped the seller is in the position of a temporary monopolist. There is no real competitive pressure in relation to price – under monopoly conditions, prices will generally be higher than where competition prevails. If the customer refuses the offered fare he or she faces an uncertain waiting time before repeating the same negotiation with another cab.⁸

At ranks, it is a generally accepted social practice that customers will engage the first taxi in the rank, without negotiating on price, and without consideration of safety or quality. The result is that there is no place for competition between providers.⁹ In some cases, reformers have sought to change this social practice in order to encourage competition, but apparently without success.¹⁰ We take the view that we should take such practices as independently fixed in assessing the need for regulation, rather than relying on people changing their behaviour to suit economists' prescriptions.

The importance of taxis and PHVs to the national transport network makes it essential that the regulatory system they operate within is appropriate. Passenger and driver safety is paramount, but it is also important to ensure fair and effective competition, and clear and transparent licensing and enforcement. The regulation of taxis and PHVs is currently opaque, cumbersome and often restrictive in its effect. Additionally, entry controls in the taxi market can distort the competitive process and provide the incentive for illegal activities such as taxi touts.

⁸ D Biggar, *Why and how should we regulate taxis?* (2011) p 5.

⁹ We have been told that on some occasions, in some places, the practice of customers not necessarily engaging the first taxi has developed. Customers may either go to the first taxi from a preferred supplier, or go down the rank seeking to negotiate on price. We are not aware of any research on behaviour in ranks, but our impression is that this form of engagement is unusual, and confined to particular ranks in some areas. For present purposes, we discount it as having a significant effect on the behaviour of taxis in the general ranking market, but would be interested in any further information on the practice.

¹⁰ See the example of herring-bone patterned ranks in the Netherlands, where taxi drivers continued to direct passengers to the "first" taxi in the line, even when to do so was unlawful: A Baanders and M Canoy *Ten Years of Taxi Deregulation in the Netherlands – The Case for Re-Regulation and Decentralisation* (2010), <http://etcproceedings.org/paper/ten-years-of-taxi-deregulation-in-the-netherlands-the-case-for-re-regulation-a> (last visited 23 April 2012).

The profile of taxi users raises particular concerns. Vulnerable groups such as those on low income and those with impaired mobility constitute a significant proportion of users. The absence of a viable service that meets the needs of taxi users within these groups would effectively restrict their opportunity for travel, be it for leisure or business. Societal-wide benefits flow from ensuring social inclusion and their value is often insufficiently captured within market evaluations.

This project aims to secure targeted, appropriate and transparent regulation. Given the deregulatory focus of the project, it is intended that regulation be as proportionate and light-touch as possible.

Policy objectives

Simplification and modernisation

A clearer, more consistent and cohesive statutory framework would give rise to better, more transparent decision-making, with fewer unnecessary geographical variations. It would enable the law to be more easily understood both by licensing officers and those within the industry. This would ensure that decisions were taken in a more appropriate fashion, and that those within the industry were able to plan their actions around a predictable body of law.

Consistency

We see little justification for the current degree of variation in licensing. This is particularly the case with geographical variation, but also some differences between taxi and private hire regulation. A core function of licensing is to promote safety, and we see no reason why basic safety standards should differ between taxis and private hire vehicles. As noted above, consistency in licensing decisions aids both licensing officers, who may be unclear as to the way in which they should approach their duties, and those within the industry.

Flexibility

Legislation in this area is in danger of causing the trades to ossify. Legislation which not only takes into account modern technological developments, but equally recognises the possibility of significant future developments, will lead to less uncertainty in the law and a greater ability for those within the industry to expand and develop.

More effective enforcement

Regardless of the strengths of the statutory framework, good licensing practice will only be undermined by poor enforcement. Although much of this is a question of resources, increasing and clarifying the powers of enforcement officers will help maintain confidence in regulation.

The efficient functioning of the markets

Although we recognise that scope for competition can be limited, particularly within the taxi market, removing some of the restraints on competition would lead to a more efficient market. This in itself would bring improvements such as greater compliance and the heightening of standards without the need for increased government intervention.

Cost efficiencies

Attainment of the above aims would, ultimately, lead to savings. Greater clarity in licensing decisions would minimise the number of applications which result in a court case, and improvements to enforcement powers could also reduce recourse to the courts. A regulatory system with fewer variations and which allowed market forces to operate more freely could also lead to fewer infractions.

OPTIONS FOR REFORM

We have considered three options:

- (1) Option 0 - Do nothing.
- (2) Option 1 – Reformed two-tier system (moderate reform).
- (3) Option 2 – One-tier system (major reform).

Option 0: Do nothing

Under this option we would retain the current regulatory system. Some of the key features of the current law, linked to the problems identified earlier, are:

- The legislation governing taxis and private hire vehicles is fragmented, complex and has been developed in a piecemeal fashion, with the result that it does not provide a holistic or comprehensive and consistent regulatory scheme. This has led to confusion whether and how non-standard vehicles should be licensed, which in turns can give rise to a chilling effect on licensing practice.
- The current legislative framework contains a number of inconsistencies, whether on a geographical basis or as between taxi and private hire vehicles. Licensing authorities currently have a wide discretion in licensing matters, which allows them to effectively exclude vehicles from consideration and to impose sometimes burdensome and costly conditions.
- The existing statutory framework can be inflexible and is often unable to deal with advances in technology. For example, private hire operators are limited in their ability to work across licensing districts as the relevant legislation was enacted prior to the invention of the mobile phone, and the definition of plying for hire, a central tenet of taxi legislation, is being undermined by the availability of immediate pre-booking via smartphone apps.
- Current regulation fails to recognise those areas in which competition could work in a more efficient manner within the taxi and private hire markets. Competition can be a driver for higher standards and innovation, but the existing scope for this is limited.
- The existing licensing system incurs a great deal of unnecessary cost. The most notable example of this is in court costs incurred where the decision of a licensing authority is challenged. Were the duties and powers of licensing authorities to be better defined, and exercised on a more uniform basis, the scope for this would be reduced.

Option 1: Reformed two-tier system

Our preferred option is to reform the regulatory framework for taxi services while retaining the regulatory distinction between taxis and PHVs to allow for an appropriate balance of local and national standard-setting.

In respect of safety our preferred option brings some common standards to both taxis and PHVs. Our starting point is that all vehicles and drivers carrying passengers for hire and reward should be safe. This suggests that the same safety requirements should apply to both taxis and PHVs. Such national standards would be set by the Secretary of State and the Welsh Ministers, in respect of drivers, vehicles and operators. We recommend that this be done following consultation.

These standards include, but would not be limited to:

- 1) for drivers: “fit and proper” person, medical, CRB checks, and disability awareness training;
- 2) for vehicles: roadworthiness standards and potentially accessibility for particular vehicles; and
- 3) for operators: “fit and proper” person.

In respect of PHVs which operate exclusively on a pre-booked basis, competitive forces work reasonably well, and the argument for intervention beyond safety is not strong. We therefore propose the national standards above would be mandatory so that local authorities could not impose more stringent conditions and fees for issuing PHV driver and vehicle licences would be set nationally. We would propose to maintain operator licensing as a useful layer of enforcement and information gathering in respect of licensing functions for local authorities.

By contrast the hail and rank markets do not allow competition to operate effectively. These forms of engagement by consumers in the market prevent competition on price and standards. The same is not true of the pre-booked market. By making these markets the exclusive remit of taxis it is possible to target regulation to address specific market failures more effectively and at a local level. On this model taxi regulation should continue to be a local matter subject to national *minimum* standards. Local authorities would be able to impose higher standards. It may be necessary to prescribe or proscribe particular conditions at national level.

Matters over which local authorities would retain standard-setting powers include:

- 1) maximum fares;
- 2) disabled access including 100% wheelchair accessibility;
- 3) additional driver requirements such as topographical knowledge; and
- 4) vehicle standards in respect of defined categories, including for example, livery, colours and age policies.

We believe that where national and local standards are set in an appropriate fashion, the licensing regime will be simpler, more consistent and more transparent. This will lead to fewer burdens being placed on those within the industry, by way of local variations and restrictions, as well as unforeseen costs. It will also give licensing officers greater clarity in performing their role.

The appropriate setting of these two sets of standards and of fees, with the taxi minimum at least as high as the national PHV mandatory standard, should remove any incentive for operators to register as taxis in one area in order to operate as PHVs in another, one of the most high profile problems with the current law.

We note in particular that a rural local authority without a significant hailing or rank market could choose to adopt the national mandatory PHV standards for their taxi fleet. This would achieve a similar result to opting into a one tier system of the local authority, bringing the benefits of Option 2 below, but without what we see as the disadvantages of applying this on a nationwide scale.

The issuing of licences and enforcement would remain a local authority function. Enforcement officers would be able to enforce against any vehicle, no matter where it was licensed. Given the nationalisation of PHV operation and merging of safety standards in respect of all vehicles this would, we hope, be easier to apply in practice and alleviate cross-border issues. The requirement that driver, vehicle and operator all be licensed in the same area would no-longer apply. The PHV industry, which in many ways already operates on a more national scale than the taxi trade, would no longer be restricted by what are often redundant borders.

We think London could be accommodated within the regulatory framework above as it would provide sufficient scope to set appropriate standards reflecting its unique governance arrangements in respect of transport; as well as its particularly vibrant rank and hailing markets.

We propose the abolition of quantity restrictions as we think that appropriate standard setting can provide a sufficient safeguard for standards; and that environmental and traffic regulations specifically targeted to the problems raised are more likely to achieve the desired results.

The scope of our preferred reform option covers all road transport services provided for hire with the services of a driver. We recognise that this covers a broad category of vehicles, many of which will not conform to the standard saloon car or taxi cab models. For this reason, we propose that the Secretary of State and Welsh Ministers would have the power to lay down different standards for different categories of vehicle, or indeed to exempt certain vehicles and services from the scope of regulation.

Option 2: One-tier (major reform)

One possible form of reform would be to move away from the current distinction between taxis and private hire vehicles to what is described as a “one tier” system.

This option would provide for a single category of licensed vehicle that would be able to take pre-bookings, to be hailed and to wait on ranks on the same basis as current taxis. There would be no free-standing category of PHV licence. Variants of this option would introduce some modifications to the basic model. An example might be to reserve certain positions in prime ranks for use only by wheelchair accessible vehicles.

The reason we have provisionally chosen not to pursue this route to reform is because we see the pre-booked market on the one hand, and hailing and ranking markets on the other, as having very different characteristics. These characteristics suggest the imposition of basic safety standards on private hire vehicles, but no more. By contrast, there is a need for much more thoroughgoing intervention into the taxi market, to regulate fares, quality, additional safety provision and what we have described as uniformity conditions.

It follows, in our view, that the economics of the market in which taxis and private hire vehicles operate, and the regulatory implications thereof, support a distinction between those vehicles and drivers who should be permitted to undertake only pre-booking, and those who should also be able to engage in the hailing and ranking markets.

If greater intervention is needed in one market and not the other, then a one tier approach necessarily implies that either one market will be over-regulated, or the other under-regulated. Either we accept unnecessary and anti-competitive restrictions on pre-booking, such as fare regulation and higher quality standards; or we fail to properly regulate fares and quality in the hailing and ranking markets. Either way, consumers lose. In the first situation, they are faced with inflated prices (and, possibly, less choice in respect of quality) in the pre-booked market. In the second situation, they face exploitative monopoly fares and poor quality provision in the hailing and ranking markets. Equally, it would be very difficult to ensure proper provision for disabled users in a one-tier system. The loss of the distinction between taxis and private hire vehicles would, as with fares, result in either over-regulation – in the form of a requirement that all vehicles be wheelchair accessible, or by only allowing WAVs to access ranks, for example – or under-regulation, for example simply allowing market forces to operate. As we have seen, market forces do not ensure sufficient provision in the hailing and rank markets.

For the above reasons, we do not pursue the one-tier system as a valid option. Our analysis below focuses on our preferred option, that of a reformed two-tier system.

Main Stakeholders

The main stakeholders are:

- Taxi service providers: this includes drivers, vehicle owners and operators, and extends to limousine services and other non-standard services;
- Licensing bodies, for example TfL and Councils outside of London;
- Enforcement agencies, including the police;
- The court system; and
- Taxi users – the general public, and in particular those with mobility needs and those in areas which do not enjoy good public transport.

Scale and scope

The term taxi generally refers to the two main types of licensed vehicles – hackney carriages (the legal term for taxis), which undertake hail and rank work but can also do pre-booked work, and private hire vehicles, which can only undertake pre-booked work. Both provide a door-to-door service, but other similar arrangements also fall within

this functional description, for example limousines and novelty cars. See Table 1 below showing relative market size by taxi service category.

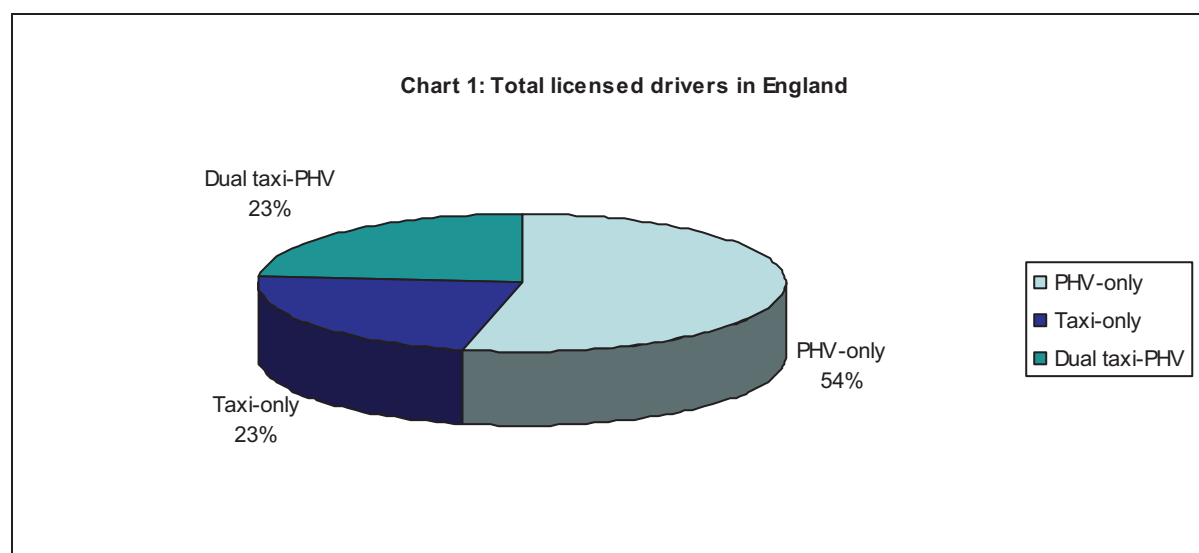
Table 1: Comparative taxi and private vehicle hire market size in England and Wales, 2011

Taxi service	Number of vehicles
Hackney carriage	78,000
Private hire vehicles	155,100
Limousines*	6,000*

Source: DfT Taxi Survey, 2011; * Anecdotal evidence supplied through consultation

Number of drivers and vehicles

The Department for Transport taxi survey estimates that there are now 299,200 licensed taxi or PHV drivers in England and Wales.¹¹ Of this number 287,300 (or 96 percent) drivers are based in England. It is clear that the number of licensed drivers exceeds the number of licensed vehicles by 66,100, or 28 percent. A much larger proportion of drivers are PHV licensed as against hackney carriage license holders, see chart 1 below.



Source: DfT Taxi Survey, 2011.

Although there are approximately 300,000 licensed drivers, this includes both part time drivers and those who still have a licence but are inactive. Coming to a realistic figure for the total of full-time equivalent active drivers is not easy, and there is little data available. We accept that the concept of full-time equivalent active drivers is itself speculative given the wide variety of working patterns present within the trades. We suggest a range of active drivers between 200,000 and 300,000 with a best estimate of 250,000 full-time equivalent active drivers. We refer to this figure for the purposes of estimating the total revenue for the trades. However for the purposes of estimating training costs for example we have used a conservative figure including all licence holders.¹²

We estimate current industry full-time equivalent employment to be around 250,000. This would accord with estimates from industry sources. As we have endeavoured to make clear, this figure is not based on very robust data, and we particularly welcome views on whether it is a reasonable estimate or not.

There is a clear geographical difference between the number of vehicles operating in London and numbers in all other regions outside of London. In 2011 London, with an estimated 29 percent of taxis and 33 percent of all private

¹¹ <http://www.dft.gov.uk/statistics/releases/taxi-and-private-hire-vehicle-statistics-2011/>.

¹² The distinction between full time and part time working does not, however, impact training costs because all drivers would need to be qualified to the same relevant standard.

hire vehicles, accounted for a disproportionately large share of industry activities.¹³

Taxi and private hire services are particularly important to households without a car. Car availability is strongly correlated with income. In 2010 it was estimated that four times as many trips were made by households without cars in taxis (relative to five times as many trips by bus).¹⁴ The Survey identified 49 percent of households in the lowest income quartile as being car-less as against 9 percent in the highest income quartile.

It is estimated that around one-fifth of the population in the UK is disabled – over 10 million people.¹⁵ Approximately 4.6 million of those with disabilities are over the state pension age and, with an ever-aging population.¹⁶ Disabled persons are reported to travel approximately a third less often than those who are not disabled, but disabled people use taxis and private hire vehicles approximately 67% more than people who are not disabled.¹⁷ The Disabled Persons Transport Advisory Committee report that

For a large and growing number of elderly and disabled people, they are quite literally a lifeline. Often taxis provide the only means of accessible local transport, or the only accessible link to long distance transport, for example, by rail or air. In fact, they are the most flexible form of public transport this is.¹⁸

Industry revenue

There is currently no robust estimate of industry revenue which we feel confident in using. We have therefore attempted to estimate total revenue by using four different methods. We put the resulting figures forward as a basis for consultation. The critique to which our earlier approach to industry revenue was subjected has been very helpful in developing our current approach, and we hope that consultation will result in improvements to the assumptions we make. Because of our uncertainty over this critical figure, we have accepted the need for a large range.

There is one strong empirical statistic. This comes from the ONS Household survey, which estimates UK household expenditure on taxi and PHV journeys as £2.645 billion (in 2011 prices). Adjusted on a simple population basis to reflect the population of England and Wales rather than the UK, this gives a domestic household figure of £2.35 billion.¹⁹ However, this significantly underestimates total industry revenue because it excludes expenditure on taxi and private hire services by (a) businesses; (b) statutory services; and (c) foreign households – that is, primarily foreign tourists. We call this non-household expenditure below.

Case/Calculation one

The first calculation is based on adding a figure to the ONS household survey data to represent non-household expenditure.

The calculation depends on coming to an estimate for the percentage uplift to be applied to the ONS household survey figure to arrive at a figure for total revenue. It is therefore sensitive to the accuracy of our assumptions about uplift. This is an area where we hope feedback on consultation will assist us in improving the estimate.

We think it likely that the uplift required for London is higher than outside London. While expenditure by statutory services will probably be similar to that elsewhere in England and Wales, we think it likely that both private business and foreign tourist expenditure will be significantly higher. In London, we therefore propose an uplift of 75% to 125% for non-household expenditure. In reality, the real uplift figure for large towns and cities outside London will be

¹³ <http://www.dft.gov.uk/statistics/releases/taxi-and-private-hire-vehicle-statistics-2011/>.

¹⁴ See National Travel Survey 2010, Travel by car availability, income, ethnic group, household type and NS-SEC, page.2, published by the Department for Transport, 2011.

¹⁵ This statistic was taken from Department for Transport, *Consultation on Improving Access to Taxis* (February 2009) para 1.5, bullet 2. The source is not attributed.

¹⁶ We note however that older people are likely to be under-represented by such figures as they do not include care home residents; and further, the figures are based partly on self-declaration and most studies show that older people are either less likely to disclose a disability or identify as being disabled.

¹⁷ Disabled Persons Transport Advisory Committee, *Attitudes of Disabled People to Public Transport – a research study conducted for the Disabled Persons Transport Advisory Committee* (November 2001).

¹⁸ Disabled Persons Transport Advisory Committee, *Advice for taxi drivers – meeting the needs of disabled passengers*, available at: <http://dptac.independent.gov.uk/pubs/taxiadvice/index.htm> (last visited 12 March 2012).

¹⁹ <http://www.ons.gov.uk/ons/rel/pop-estimate/population-estimates-for-uk--england-and-wales--scotland-and-northern-ireland/mid-2010-population-estimates/annual-mid-year-population-estimates--2010.pdf> (last visited 7 June 2012).

different from that in smaller urban centres and rural areas. Accepting that, we nevertheless suggest a general uplift outside London of between 20% and 50%. The calculation also assumes that household expenditure in London and the rest of England and Wales is divided on the same ratio as taxi/PHV vehicular provision in each area, that is, 30% in London and 70% outside London. See table 2 below.

Table 2: Industry revenue estimate – ONS adjusted

	Low estimate	Best estimate	High estimate
A. Household expenditure: England and Wales (£ bn)	2.35	2.35	2.35
B. Non-household expenditure: London % of A	75	100	125
C. Non-household expenditure: London (£ bn). (A x B)	1.76	2.35	2.94
D. Non-household expenditure: Out of London % of A	20	33	50
E. Non-household expenditure: Out of London (£ bn). (A x D)	0.47	0.78	1.18
F. Non-household expenditure (weighted): England and Wales (£ bn). (30% x C) + (70% x E)	0.86	1.26	1.71
G. Industry Revenue (£ bn). (A+F)	3.21	3.61	4.06

Case/Calculation two

This calculation depends on multiplying the number of miles travelled by members of the public with a figure which represents the average fare.

The average mileage travelled per adult on taxi journeys in England and Wales is 54 miles per year.²⁰ The adult (17+) population in 2010 was just over 44 million.

There is no reliable single figure for the average fare per mile. We explain the concept of the “running mile” below.²¹ This figure, which seems to us to be generally used in the trade, is directly derived from maximum fare levels set by local licensing authorities. Because of the complexities of tariff structures, it cannot represent a true average of taxi journeys actually undertaken, but it nevertheless seems to provide a reasonable approximation. The figure also seems to be used by many private hire operators as a means of setting fares for equivalent journeys by private hire vehicles. Again, this is imprecise. First, many private hire operators do not peg themselves to the running mile. Higher end operators will certainly charge more. Secondly, many private hire journeys are not comparable to metered taxi journeys. They include longer journeys, which for a taxi would be out-of-area; and contract work for statutory services (such as the NHS, social services and education authorities) may not rely on the running mile. In addition, the calculation missing altogether foreign tourists, a significant element of revenue in some areas.

With these caveats in mind, the national average of the running mile in tariff one is £1.78.²² This is a simple average of all local authority areas, not weighted by number of taxis in each area. This is likely to result in under-estimation, as it does not reflect the significance of London in the overall volume of trade (the running mile for London is £2.50).

Applying the national average to the average journey length gives a figure of about £4.3 billion per annum.

²⁰ See Department for Transport, National Travel Survey 2010, Table NTS0305.

²¹ See the section ‘Fees and entry restrictions’ at p 15 below.

²² The National Private Hire Association has maintained a database of key statistics for over 10 years. The national average of the running mile was supplied from this source. We know that regulated fares apply only to hackney carriages but think this is a reasonable proxy which can also be used as an estimate of the likely per mile charge also faced by PHV drivers.

Case/Calculation three

This calculation seeks to establish an overall figure for revenue by estimating driver gross receipts. All of these calculations are subject to error, as we have explained. This calculation in particular is highly speculative.

In order to operate as a taxi/PHV driver there is a requisite minimum expenditure of about £250 to cover insurance, licensing, radio rental for PHVs and leasing/finance arrangements. We make the assumption that drivers will need to meet this cost initially and will subsequently aim to secure at least the equivalent of a minimum wage for a standard working week. We emphasise that we are not suggesting that drivers only work a standard week, and in that standard week earn the minimum hourly wage. Rather, we are suggesting that drivers will work such hours as are necessary to earn something similar to the minimum wage, at least. We have taken further account of fuel expenditure to identify gross earnings. See table 3 below

Table 3: Estimated industry revenue – earnings based

	Low estimate	Best estimate	High estimate
A. Number of drivers	250,000	250,000	250,000
B. Minimum weekly earnings (£)	230	260	300
C. Expenditure on fuel/licensing/insurance (£)	250	275	300
D. Gross earnings (B + C) (£)	480	535	600
E. Industry revenue A x D x 50 (£ bn)	 6.00	 6.69	 7.50

Assumptions:

Vehicles are operational over a 50 week period.

Taxi/PHV drivers earn at least the national minimum wage, which is £6.08 per hour and equivalent to gross earnings of about £230 per week (low estimate) – with an uplift ranging to £300;

Expenditure on licensing, insurance, leasing/vehicles financing costs and fuel, etc are approximately £250-£300

250,000 taxi/PHV drivers are actively engaged

Anecdotal evidence from the industry, across a diversity of regions, consistently identified an gross annual earnings of about £25,000 - £30,000. Assumed weekly earnings are consistent with this value.

Case/Calculation four

This calculation proceeds from an estimate of average *driver* mileage, to which an approximate average fare is applied.

Using the following assumptions:

Average taxi/PHV driver mileage ranges from 500-700²³ miles per week;

Paid mileage is determined by accounting for just one half of the journey – which is appropriate for PHV drivers but

²³ We recognise that this is an average value and carries with it the limitations associated with an average. Industry evidence indicates a wide range of values where small firms (and those located outside town centres) average about 500 miles, whereas larger town centre located firms can have much higher values – 700 miles per week.

underestimates the full mileage value for taxi drivers who may also pick up hailing passengers or stand at a rank closer to the drop off point;

Taxis/PHVs operate at the national average of paid mileage of £1.78 per running mile

250,000 taxi/PHV drivers are actively engaged

See table 4 below

Table 4: Estimated industry revenue - mileage based

	Low estimate	Best estimate	High estimate
A. Number of drivers*	250,000	250,000	250,000
B. Average minimum mileage	500	600	700
C. Paid mileage (B/2)	250	300	350
D. National average of paid mileage (£)	1.78	1.78	1.78
G. Industry revenue (A x C x D) x 50 (£ bn)	5.56	6.68	7.79

Conclusion

Based on the evidence of the four calculations we have identified a range of plausible industry revenue values. If we use the low estimate for each calculation, the range is from £3.2 billion to £6.0 billion. As we have said, we have tried to use a variety of ways of estimating total revenue because of the paucity of hard data available. The one good quality figure we have for total revenue is the ONS household expenditure survey figure. In coming to a conclusion on the best estimate, we return to consider the figures generated here in the light of that figure. The lowest figure in the low estimate range we mentioned above would imply that business, statutory authority and foreigner expenditure, amounted to only rather more than a third of household expenditure on taxi fares. This seems to us to be implausible. On the other hand the highest figure (£6.0 bn) would suggest that business, statutory authority and foreigner expenditure, amounted to more than one and a half times that derived from ordinary households. This again seems unlikely. On this basis we have selected the central values in the low estimate range, £4.3 bn to £5.6 bn, with £5.0 bn as the mid point representing our best estimate.

Licensing arrangements

Taxis and PHVs provide a licensed service subject to set terms and conditions determined by a licensing authority. In London, taxis and PHVs are licensed by TfL. There are 342 licensing bodies outside London and each sets its own licensing conditions including, for taxis, a determination of the fare structure. Whereas the fares charged by taxis are regulated those charged by PHVs are not. In understanding fare-setting a helpful distinction is made between the flagfall and the running mile. The flagfall refers to the initial charge for a distance travelled and this can range from under 100 yards to over one mile. Considerable variability in councils' approach to the flagfall distance means that it is neither practical nor meaningful to refer to taxi charges on the basis of a common flagfall (distance) value. The running mile has emerged as a simple means of understanding how much a taxi will charge per mile. One stakeholder referred to it as "the lowest common denominator" and it is now calculated for five and ten mile fares. The national average (simple average) of the running mile for regulated fares in tariff one - daytime and week days - in early 2012 was estimated to be £1.78²⁴.

The Local Government Association states that most licensing authorities will have between one and three full-time

* We use the best estimate of active drivers as discussed above, Scale and Scope, at p 9.

²⁴ Source: National Private Hire Association.

equivalents for taxi and private hire licensing officers and the Local Government Association notes that the salary of a licensing officer is between £17,500 and £21,800 (in 2011 prices).²⁵ We are not aware of other reliable sources regarding the numbers of dedicated licensing officers generally and anecdotally we understand there is great variation between different authorities' licensing teams. We hope to establish more reliable information from relevant professional organisations and this consultation.

Fees and entry restrictions

The latest available information for the period ending January 2012 on licensing fees charged by councils outside London reveals significant variations. One year driver licence fees can range from £33 to £299 across licensing authorities and one year vehicle licence fees can range from £70 to £400.²⁶

Licensing authorities outside London can impose quantity restrictions on the number of hackney carriages that can ply for trade within the area. Entry restrictions can vary dependent on whether licence applicants are intending to operate wheelchair accessible vehicles (WAVs). See Table 5 below.

Table 5: Number of councils with/out entry controls, 2012

Council policy	Number of Councils
Regulated (with entry controls)	93
Deregulated :	(249)
A. No entry controls	139
B. Entry controls removed for WAV newcomers	73
C. With 100% WAVs	37
Total	342

Source: Data provided by the National Private Hire Association

For areas that have retained restrictions it is often the case that licences are in short supply and as a result attract a premium value. The premium value is significantly greater than the administrative cost of purchasing a license from the licensing authority. Two independent studies in 2007 estimated the weighted average premium value as £29,753 and £33,635.²⁷ However licences can be sold for as high as £60,000 or more. Local authorities can only restrict taxi numbers if they can show that there is no significant unmet demand for taxi services. To satisfy this legal requirement, it has become a universal practice to undertake an unmet demand study a survey of rank based demand conditions capturing consumer waiting time experience and incorporating latent demand.²⁸

The extent to which the survey provides an accurate depiction of demand conditions had been criticised. In particular there is concern over an insufficient acknowledgement of latent demand, that is, hidden demand that typifies users' decisions to not present at ranks because of the lengthy waiting times. Moreover the focus on rank-based demand ignored demand at the street level potentially further underestimating the true value.²⁹ Since 2006

²⁵ Local Government Association, <http://www.lgcareers.com/careers-az/licensing-officer/> (last visited 17 April 2012).

²⁶ Data on annual survey provided by the National Private Hire Association.

²⁷ The weighted average values reflect the views of the Europe Economics survey (£29,753) and the Taxi Driver Online (£33,635). See Evaluating the impact of the taxis market study, A report for the OFT by Europe Economics, p 91. http://www.google.co.uk/url?q=http://www.of.gov.uk/shared_of/reports/Evaluating-OFTs-work/oft956.pdf&sa=U&ei=GS2qT83JGIPi4QTIsb28CQ&ved=0CBMQFIAA&usq=AFQjCNEGFQFiw9sUmOr5QAIYkUF7VrppIQ, (last visited 9 May 2012).

²⁸ Measuring unmet demand is all a question of evidence, see *R. (on the application of Maud) v Castle Point BC* [2002] EWCA Civ 1526, [2003] RTR 7, at para 24 by Keene LJ.

²⁹ See OFT report for full development of the failings of the unmet demand survey at http://www.google.co.uk/url?q=http://www.of.gov.uk/shared_of/reports/comp_policy/oft676.pdf&sa=U&ei=dAoDT-nFOoOjQceWjKoB&ved=0CBQQFjAB&usq=AFQjCNHFW_bLy3MpV2Ty-Swl1fVhST3HeA.

unmet surveys, for example the recent Wirral taxi unmet demand survey,³⁰ have attempted to capture latent demand within the index of significant unmet demand through the “latent demand factor”. This is derived from a public attitude survey of the proportion of the public who have given up trying to obtain a taxi. The survey involves consultation across a broad range of stakeholders and is a cost to the taxi trade of about £15,000 to £40,000 per survey.

Training

Most licensing authorities operate a system of on-going training for their licensing officers. Much of the training is currently undertaken in-house and through national organisations. Licensees also undertake training – some of which is mandatory within particular licensing authorities. There are three main nationally recognised qualifications for drivers:

Driving Standards Agency (DSA) driving assessment for taxis and private hire vehicles – a single test involving an eyesight test and a practical test including manoeuvres, “cabology” questions and passenger safety and comfort. The enhanced assessment also includes a wheelchair exercise.

Edexcel BTEC Level 2 Certificate in Introduction to the role of the professional taxi and private hire driver – 15 credit course covering 9 units including the regulatory framework, taxi and private hire services for passengers who require assistance and health and safety in the taxi and private hire environment;³¹

Edexcel level 2 NVQ Certificate in road passenger vehicle driving (Taxi and Private Hire) – 30 credit course covering 16 units including similar units to the certificate above plus optional units focussed on the management and administration of a small business and fare specific training.³²

The DSA assessment is currently required by a number of local authorities. It costs approximately £93, depending on when it is taken, although candidates are advised to take professional lessons beforehand. Both Edexcel qualifications were developed following lengthy consultation with the trade and the first course delivery was in January 2011. Anecdotal evidence suggests that about 30 percent of existing drivers have the relevant training. The NVQ is fully funded³³ at around £1200 and the introduction subsidised at £398. Programmes are available at colleges and private bodies at a cost that varies between £400 - £600 for the introduction.

We are also aware of at least one local authority (North West Leicestershire) which provides in-house disability awareness training for just £20.

Taxi offences and prosecution costs

The burden on the justice system created by licensing issues is great. The majority of cases are heard in the magistrates’ court, although some are appealed to the Crown Court or High Court.

When court costs are added to the cost of undertaking the initial investigation and enforcement work, the final cost is often significant. As these are criminal cases, the costs awarded where the defendant is found guilty rarely reflect the outlay incurred by the prosecuting authority.

The following information was supplied by Middlesbrough Council. It is based on a representative range of offences prosecuted between 2008 and 2011. This information can be built upon to give an impression of costs incurred by licensing authorities across England and Wales. The information below relates to criminal prosecutions.

Unfortunately it has not been possible to obtain similar statistics for civil cases, such as where a licensee appeals against the imposition of a condition, the refusal of a licence or a decision to suspend or revoke a licence. See table 6 below.

³⁰ <http://www.national-taxi-association.co.uk/wp-content/uploads/2012/01/HALCROW-WIRRAL-SURVEY-2011.pdf> (last visited 7 May 2012).

³¹ <http://www.edexcel.com/quals/Specialist/taxi-ph-driver-1v12/Pages/default.aspx> (last visited 3 May 2012).

³² <http://www.edexcel.com/quals/NVQ-competence-based-qcf/rpt/Pages/default.aspx> (last visited 3 May 2012).

³³ As at May 2012 funding is currently available for certain categories of the unemployed.

Table 6: Middlesbrough Council average prosecution costs 2008 - 2011

Category	Cost	Range
Average investigation costs	£132.22	£101.98 – £155.81
Average legal costs	£510.93	£200 - £1537.50
Average total cost to council	£615.03	£304.58 - £1693.31
Average costs awarded	£148.86	Nil - £362
Average loss to council	£466.17	N/A
Average recovery rate	24.2%	N/A

Taxi and private hire licensing is a self-funding function of licensing authorities. Thus where a local authority incurs, for example, annual expenditure of £10,000 on enforcement activities (including unrecovered legal costs), this may be passed on to the trade via increased licence fees.³⁴ This leads to a great deal of resentment, as legitimate licensees are essentially penalised for the actions of rogue operators

A prosecution incurs the additional investigation costs inclusive of professional fees of expert witnesses and officers' time. It is often the case that the true cost in bringing a case is not reflected in the costs sought from courts. This means that licensing authorities may face considerable losses through taking cases to court and may act as a disincentive.

Safety and assault evidence

Safety improvements are a significant objective of the proposed legislative reform. Safety improvements would stem from two sources: first, a reduction in journeys involving an unlicensed vehicle and/or driver, and secondly, improved and uniform vehicle safety standards.

Passenger safety

The most recent statistics on the number of accidents involving taxis is for the 2008-2010 period and it provides a mixed message.

Table 7: Accidents involving taxis and cars, 2008-2010

Vehicle type	2008	2009	2010	Total
Taxis				
- Fatal	50	34	40	124
- Serious	641	613	556	1,810
- Slight	4,453	4,516	4,595	13,564
Cars				
- Fatal	2,661	2,292	1,882	6,835
- Serious	24,907	23,668	21,667	70,242
- Slight	203,284	195,324	183,194	581,802

Source: Department for Transport

With the exception of slight injury accidents, there is a declining trend with respect to fatal and serious accidents. Comparative figures on the total number of accidents per 1000 of licensed taxis as against licensed cars reveals a significant difference in performance. Taxi accidents accounted for 117.53, 118.04 and 118.49 with respect to 2008, 2009 and 2010. In the case of cars the comparative figures were 8.20, 7.83 and 7.28 for the same 2008-2010 period.

Transport for London reported 111 cab-related sexual offences in 2010 alone³⁵ and Greater Manchester Police recorded 98 offences of rape or sexual assault linked to taxis and private hire vehicles in the same period.³⁶ Whilst the latter figure may appear to be disproportionately high, the data was obtained through a Freedom of Information request. In its response, Greater Manchester Police noted that the information given was based on a search for offences where keywords such as "taxi", "cab" and "minicab". This means that offences which took place against a

³⁴ Outside of London, only vehicle licence fees can fund enforcement whereas driver and operator licence revenue cannot be used for this purpose, see See Local Government (Miscellaneous Provisions) Act 1976, s 53; and the Guildford Auditor case at www.guildford.gov.uk/cHttpHandler.ashx?id=6647&p=0 (last visited 23 April 2012).

³⁵ See <http://www.tfl.gov.uk/corporate/media/newscentre/archive/21165.aspx> (last visited 10 April 2012).

³⁶ Freedom of Information request submitted by Mr L Reid to Greater Manchester Police, 3 January 2011, reference 10/11.

taxi-related background, but were not perpetrated by the driver or passenger may have been included. A recent Freedom of Information request submitted to Merseyside Police revealed 22 sexual offences alleged to have been committed by taxi or private hire drivers against passengers.³⁷

The Home Office 2003/04 study of the cost of crime³⁸ estimated that the most costly crimes are those such as sexual offences and homicide which have a very high emotional and physical impact. The estimated total cost of £31,438 (in 2003 prices) attempts to capture the costs to the criminal justice system, lost productivity but even so it still considerably underestimates costs.

Driver safety

It is important to recognise that drivers too are at risk. In the past 20 years, 63 taxi or private hire drivers have been murdered.³⁹ Whilst this figure does not distinguish between those who were killed whilst working and those whose deaths were not linked to the trade, it is nevertheless a substantial concern. Drivers are frequently victims of assaults and robberies. Our proposals would allow for driver safety measures to be provided for by regulation.

COST BENEFIT ANALYSIS

This impact assessment identifies both monetised and non-monetised impacts of intervention, with the aim of understanding the overall impact on society and the wider environment. The costs and benefits of each option are measured against the “do nothing” option. Impact assessments place a strong emphasis on valuing the costs and benefits in monetary terms (including estimating the value of goods and services that are not traded). However there are important aspects that cannot sensibly be monetised. These might include impacts on equity and fairness, either positive or negative, or enhanced (or diminished) public confidence.

The impact assessment process requires that we make an assessment of the quantifiable costs and benefits even when there is insufficient material on which to base those calculations. Where possible we have spoken to practitioners to inform our view of the likely aspects to be affected by the change in policy and have used this as the basis for our calculations. Where it has not been possible to obtain a rough indication of numbers in this way we have had to make a realistic estimate. In such cases we have taken a conservative approach and have tended to use figures that we considered likely to under-estimate benefits and over-estimate costs.

In the absence of sufficient data we have used a range of estimates in our calculations. Some of the assumptions apply in both the cost and benefit calculations. When calculating the net present value (NPV) for the impact assessment we have used a time frame of ten years, with the current year being year 0.⁴⁰ We have assumed that the transitional costs and benefits occur in year 0, with any exceptions to this rule being clearly identified, and ongoing costs and benefits accrue in years 1 to 10. We have discounted the values accordingly using a discount rate of 3.5% in all cases in accordance with HM Treasury guidance. Unless stated, all figures are in 2010/11 prices, and have been updated using the GDP deflator.

A summary analysis and evidence sheet is available for our preferred Option 1.

Option 0: Do nothing

Costs

Extreme variability in councils’ approach to licensing creates unpredictable, burdensome and at times arbitrary additional costs for those within the trade. For example, a licensing authority may decide to impose an age limit, requiring certain proprietors to acquire new vehicles, or a colour policy which will require vehicles to be resprayed. The time and resource put into determining matters such as this presumably gives rise to costs for the local authorities concerned as well, as these decisions involve elected members as well as officers, and sometimes involve consultation with the industries and members of public.

³⁷ Freedom of Information request DM106/12.

³⁸ R Duborg and J Hamed, *The economic and social costs of crime against individuals and households 2003/04, June 2005*.

³⁹ Source: National Private Hire Association.

⁴⁰ The net present value is the discounted stream of benefits less the discounted stream of costs. The present value of an annual cost is the discounted stream of that cost.

The inability of potential entrants to the taxi industry to operate in restricted areas effectively prohibits the opportunity to engage in productive activity and constrains the competitive process. The same applies with regards to private hire operators wishing to expand their business into other local authority areas. The requirement that driver, vehicle and operator be licensed by the same local authority, and the prohibition on sub-contracting out of area, significantly constrains the competitive process.

The variable and sometimes arbitrary nature of licensing decisions leads to a high volume of court cases. These are expensive both in terms of court time and costs, and the costs for local authorities and appellants. It is inefficient as licensing officers often lack sufficient powers to deal with offenders and are only able to tackle offenders who are a) licensed and b) licensed by the authority for which they work. Enforcement officers often require to be accompanied by police officers, who clearly have far greater powers, and indeed in some local authorities' enforcement only takes place with police officers, as to do otherwise is seen to be wasteful.

Consumer welfare can be affected through longer waiting times than might otherwise be the case as a result of limited taxi availability. The availability of private hire vehicles can also be limited; for example, where an operator is unable to sub-contract a booking to an operator in another region, thus reducing supply, or where an operator is unable to use a vehicle and driver near to the passenger because they are not licensed by the same authority.

Benefits

The only benefit which accrues from the do nothing is the avoidance of costs associated with the implementation of the preferred option 1.

Option 1: Reformed two-tier system

Transitional Issues

Taxi drivers in areas with entry restrictions

Loss of the premium value attached to license plates

The removal of quantity restrictions on the number of hackney carriages over a phased period brings to an end the potential for a licence premium. This may be viewed as a transfer of value from the current incumbents to prospective taxi drivers prevented from entering the market and also to the benefit of taxi users through improved access.

As at the end of 2011 there was an estimated 93 licensing authorities operating entry controls. An estimated 20,450 vehicles are operational within these areas. Some drivers will have purchased a license directly from the licensing authorities, and therefore will not have paid the premium. For those that have purchased a license on the unofficial market - the licence value is estimated to range from a weighted average of about £32,800 to £37,100 (best estimate being the mid-point - £34,950).

The licence premium value provides an indication of potential future industry earnings. Such earnings are based on excess profits. One view is that the higher earnings were made possible because of entry controls restricting the possibility of entrance. In any case the excess profits will be competed away with the arrival of new entrants. This will almost inevitably mean longer driver waiting times for existing drivers and also increased working hours if drivers seek to protect existing income streams. On this basis there is the potential for a loss in productive efficiency.

Based on the experience of other countries we assume a spike in market entrants in the short run given the removal of entry controls and the generally low barriers to entry which define the taxi industry. Incumbent taxi drivers lose not only the value of the licence, but often the cost of investing in a new vehicle, maintaining it and perhaps setting up as a sole trader. The controlled removal of entry restrictions seeks to limit wastage caused by a significant influx of market entrants, who leave shortly after entering the market. The addition of other quality enhancers, such as the requirement for licensee training, aims to reduce the risk of doubtful quality market entrants adversely affecting the industry reputation as this can have a long-lasting negative effect.

COSTS

Transitional costs

Local authorities

1. Training of licensing officers

Whilst we believe that much of the cost associated with training to assist licensing officers in working within our proposed framework would be covered by existing training budgets, the significance of the changes would be likely to require additional training. This would be a one-off cost.

We have included an additional cost of £100 per delegate to cover the cost of hiring training professionals and providing a delegate resource pack. See table 8 below

Table 8: Training cost of licensing officers

	Low estimate	Best estimate	High estimate
A. Number of licensing officers	342	684	1026
B. Per hour cost of training (£)	12.86	14.43*	16.00
C. Cost of training per licensing officer (£) (7 x B) + £100	190	201	212
D. Total cost (A x C) (£)	64,980	137,484	217,512

* Mid-point between high and low estimate.

Assumptions:

Training lasts for one day = 7 hours

No. of licensing officers per local authority:

Low estimate = 1 officer;

Best estimate = 2 officers;

High estimate = 3 officers.

Low officer numbers fosters a pooled approach to training by licensing authorities, e.g. a rotating licensing authorities host training events - removing the expense of an external venue.

Total cost £137,484 (best estimate)

2. Familiarisation costs

Familiarisation costs are expected to be negligible. Any new legislation would form part of licensing officers' general training, and the current range of legislation governing taxi and private hire regulation suggests that they are already adept at keeping abreast of legislative change. Licensing authorities have, in general, good awareness of this review. It is our aim to keep stakeholders as informed as possible of the progress of our review and any proposals, and as such any change will have been anticipated, at least to a degree.

On-going Costs

Taxi and PHV trade/ local authorities/ central Government

3. Training of licensees

We have proposed a requirement that all taxi and private hire drivers undergo some form of training prior to receiving their license. This would include training on disability awareness and on giving assistance to passengers in need of it. We would not expect the appropriate training course to be stipulated in regulation; rather, this would be a matter for local authorities to decide. Currently a range of courses are available at varying costs. We envisage that the introduction of a national training requirement could lead to greater competition within the provision of these qualifications

Anticipated training costs apply to incumbents and also future industry entrants and is assumed to be one of the two most relevant qualifications - Driving Standards Agency test, generally paid for by the licensee, and the government subsidised Edexcel Level 2 introduction. See table 9 below

Table 9: Training of licensees - transitional and on-going costs

	Low estimate	Best estimate	High estimate
A. Cost of training per licensee (£)*	93	398	398
B. No. of licensees	162,500	175,000	200,000
C. Transitional cost (£) (A x B)	15,112,500	69,650,000	79,600,000
D Number of licensees	12,000	12,000	12,000
E. On-going cost (£) (A x D)	1,116,000	4,776,000	4,776,000

* Rounded to the nearest pound.

Assumptions:

Current industry employment is estimated to be around 250,000⁴¹. A range of values for the number of incumbents requiring training is as follows:

65 percent of drivers have no formal qualifications – low estimate

70 percent of drivers have no formal qualifications – best estimate

80 percent of drivers have no formal qualifications – high estimate

The current pool of licensed taxi and private hire drivers is approximately 300,000⁴² we apply projected employment growth of 4.0%⁴³ per annum to derive an annual increase of 12,000 drivers.

Transitional cost: £69,650,000 (best estimate); On-going cost: £4,776,000 (best estimate – on-going cost)

NPV over 10 years: £39,720,107 (best estimate)

⁴¹ Industry evidence suggests this to be a reasonable estimate of those actively engaged. We noted the difficulties with these figures at the outset of our discussion above, Scale and Scope, at p 9.

⁴² DfT, Taxi and Private Hire Statistics 2011, at <http://assets.dft.gov.uk/statistics/releases/taxi-private-hire-vehicle-statistics-2011/taxi-2011.pdf> (last visited 20 February 2012). The statistics apply as at 31 March, 2011. The higher estimate is used here to capture those drivers who are currently inactive but whom might resume operations in the future.

⁴³ There was an estimated 18 percent growth in the number of taxi/phv drivers over the 2005-2011 period.

4. Communication between licensing authorities

We note that our proposed reforms would not require the implementation of a data or information sharing system. Rather they would rely on existing, and more informal, means of communication. We are aware that the creation of a new system would have significant consequences both financially and in terms of interoperability.

Table 10: Summary of key costs* (£million)

	Low estimate	Best estimate	High estimate
<i>Transitional</i>			
Training (Licensees) (£m)	15.11	69.65	79.60
Training (Licensing Officers) (£m)	0.06	0.14	0.22
Total Transitional (£m)	15.17	69.79	79.82
<i>On-going</i>			
Training (Licensees) (£m)	1.12	4.78	4.78
Total On-going (Years 1 – 10) (£m)	1.12	4.78	4.78

* All values rounded to 2 decimal points.

BENEFITS

On-going benefits

Taxi and private hire trades

1. Reduced regulatory burden

Many of our proposals are aimed at reducing the regulatory burden on businesses and other organisations. This is of, for example, the clarification of the position on cross-border hiring, the removal of “triple licensing” requirements for private hire services, and allowing sub-contracting across regional borders.

The proposed reforms will have the effect of reducing the requirement to hold more than one operator license, and will both allow and encourage business expansion. Existing private hire operators will benefit from greater clarity and stability as to the requirements expected of vehicles and drivers, which would not be subject to geographical variations as they currently are.

Furthermore, removal of many grey areas which exist around licensing requirements would significantly decrease burdens which are, sometimes unintentionally, placed on many small businesses and voluntary organisations. Although clarification of which services would require licenses would be a matter for the Secretary of State and Welsh Ministers, we believe that those providing services such as childminding and driver guides should not require licences. The same applies to volunteer drivers, as their services are not provided in the course of business.

We estimate that reducing the burden of licensing and the related encouragement towards business development would lead to savings amounting to the equivalent of 0.25% – 1% of the annual industry revenue per year.

We acknowledge that there is considerable variability in earnings across the sector and because of this we have remained conservative in our approach and have not included the high estimates. However, the higher estimates remain a useful indicator of the additional savings potential which flow from our proposals. See table 11 below.

Table 11: Annual savings through reduced regulatory burden as a percentage of estimated industry revenue.

	Low estimate	Best estimate	High estimate
A. Estimated industry revenue	£4.30 billion	£5.00 billion	£5.60 billion
B. Percentage of industry turnover saved	0.25	0.5	1.0
C. Total savings (A x B)	£10,750,000	£25,000,000	£56,000,000

Total Annual savings = £25,000,000 (best estimate)

NPV over 10 years = £207,915,133

Taxi and private hire trades

2. Reduction in number of taxi driver assaults

It is important to recognise that drivers too are at risk. In the past 20 years, 63 taxi or private hire drivers have been murdered. Whilst this figure does not distinguish between those who were killed whilst working and those whose deaths were not linked to the trade, it is nevertheless of great concern.

Drivers are frequently victims of assaults and robberies. If the Secretary of State and Welsh Ministers choose to introduce more stringent safety requirements our proposals could allow for increased driver safety measures. Furthermore, national training requirements should, we suggest, include disability training, and could also better equip drivers to deal with challenging environments and avoid conflict.

Taxi Users

3. Reduced waiting time

The number of taxis is expected to increase with the removal of entry controls. This has the favourable effect of reducing the waiting time for taxi users. The 2007 OFT⁴⁴ report provides a monetised estimate of reduced consumer detriment. We draw on this analysis but also make a number of revisions as follows:

The average number of trips by taxi/phv is estimated at 11 per adult in 2009⁴⁵.

The adult population, those 17 and over, within the restricted areas⁴⁶ has been calculated by applying the same ratio of adult/total population evident in the most recent population statistics for England and Wales – 2010.⁴⁷ This is equivalent to 13,863,926 adults within the 93 areas which still have entry controls.

Total trips by taxi = adult population x 11 trips ie (13,863,926 x 11) = 152,503,186⁴⁸

The 2007 study provides a breakdown for taxi users using hailing/ranks/telephone booking of the order 13.3%/31.3%/55.6%

⁴⁴ Evaluating the impact of the Taxis market study, A report for the OFT, Europe Economics, 2007.

⁴⁵ <http://assets.dft.gov.uk/statistics/tables/nts0303.xls>

⁴⁶ Calculated by adding all the population figures within the restricted areas for 2010.

⁴⁷ <http://www.ons.gov.uk/ons/rel/pop-estimate/population-estimates-for-uk--england-and-wales--scotland-and-northern-ireland/population-estimates-timeseries-1971-to-current-year/index.html> (last visited 17 April 2012).

⁴⁸ We acknowledge that by restricting the analysis to just the resident population we are underestimating the number of trips since we are excluding tourists.

Table 12: Estimated share and annual number of trips in restricted areas, 2012

	Street hailing	Rank hiring	Telephone booking
% of total trips	13.2%	31.3%	55.6%
No. of total trips by purpose ⁴⁹	20,130,421	47,733,497	84,791,771

The monetary value of time⁵⁰ has been derived using Department for Transport (DfT) guidance. The market value for taxi/PHV passengers in 2002 prices was £44.69, and the market value for commuting was £5.04 and £4.46 for leisure trips. The DfT recommends adjusting the market value by a factor of 2.5 to derive the value of non-working time spent waiting for public transport. The weighted average of £16.90 for 2011 for all three market values is derived using distributional information from DfT for the 2002-2005 period and has also been updated using the average CPI index values.

The estimated monetary value for waiting times is based on the following formula:

Reduction in waiting time x total number of trips x monetary value per time unit⁵¹.

The reduction of time relies on the 2007 study using a conservative estimate of the lowest reduction in passenger waiting time of 0.13 minutes.⁵² Notwithstanding the conservative approach we have adjusted the values for the number of total trips projected to benefit from reduced waiting time as follows:

50 percent (of total trips) – low estimate

80 percent of total trips – best estimate

Full 100 percent (of total trips) – high estimate

Table 13: Annual Savings through reduced waiting time, 2012

% of total trips in restricted areas	Street hailing	Rank hiring	Total
High estimate (£) (100 percent)	737,109	1,747,842	2,484,950
Best estimate (£) (80 percent)	589,687	1,398,273	1,987,960
Low estimate (£) (50 percent)	368,554	873,921	1,242,475

Total Annual savings = £1,987,960 (best estimate)

NPV over 10 years = £16,533,078

⁴⁹ Based on DfT proportions for the 2002-2005 period.

⁵⁰ <http://www.dft.gov.uk/webtag/documents/expert/unit3.5.6.php> (last visited 17 April 2012)

⁵¹ Evaluating the impact of the Taxis market study, A report for the OFT, Europe Economics, 2007, p 107.

⁵² Evaluating the impact of the Taxis market study, A report for the OFT, Europe Economics, 2007, p 107.

4. Improved safety standards

Safety is a key justification for the licensing system as a whole yet there are no national minimum standards in respect of issues such as driver and vehicle safety standards. Disability groups have highlighted significant problems in ensuring accessibility and the safety of disabled passengers. Disability groups have told us that most disabled persons have to travel without proper restraints on a daily basis. This is not only unsafe, but uncomfortable and at times undignified. These problems do not only affect wheelchair users: deaf passengers may have difficulty communicating with the driver where the vehicle is fitted with a partition, and blind passengers have concerns about being unable to read taximeters.

Furthermore, standardised vehicle safety requirements and a standard frequency of checks should give rise to a general improvement in consistent safety standards.

Currently, a hire vehicle which operates illegally (for example, a PHV which plies for hire) risks invalidating its insurance. The clearer definition of plying for hire we propose, along with greater clarity on which operations and services require licenses, could significantly reduce the incidence of passengers travelling in effectively uninsured vehicles. In these instances their only means of recourse is to the Motor Insurers Bureau, whose compensation is subject to limits.

Minimum national standards ensure the reputation of the taxi trade as all providing to at least a common standard. This ensures increased user confidence and provides the basis for increased user demand. The average value for the prevention of a road casualty in the case of car and taxi occupants has been estimated at £39,449, in 2011 prices.⁵³ This means that if, as a consequence of the Secretary of State's and Welsh Ministers' national safety standards, one accident was avoided (a conservative estimate), there would be an annual saving of £39,449, two accidents = £78,900 (best estimate) and three accidents avoided per year would be £118,347 (high estimate).

Annual savings = £78,900 (best estimate)

NPV over 10 years = £656,180

5. Reduction in the number of assaults of taxi users

Our proposals should have the result of reducing the number of unlicensed vehicles and drivers, as well as the number of touts. Better enforcement will act as a deterrent, encouraging providers to work within the regulated sector, and will allow greater targeting of rogue traders. Removing confusion around which vehicles should be licensed will also ensure more vehicles which ought to be licensed will be, for example limousines. Thus fewer passengers should be carried by wholly unlicensed drivers, who are likely to be much more dangerous to passengers than safety-checked licensed drivers. Although the move to allow enhanced CRB checks will have gone a significant way towards improving passenger safety where drivers are licensed, we believe that our proposals will continue this trend.

Offences against passengers most commonly include sexual offences, assault and theft. Taking sexual offences as an example, the estimated total cost of £38,359 (in 2011 prices) provides a measure of the economy-wide benefit of preventing sexual crimes. If 111 cases have been reported in London alone, which accounts for about 30 percent of all taxi services, nation-wide the figure must be closer to 400 reported cases.

6. Increased employment in areas that remove entry controls

The removal of entry controls has the further benefit of encouraging market growth as latent demand translates into industry activity as the number of taxi users increases in direct response to improved provision.

The increased supply of taxi services in areas that remove entry controls occurs as a result of increased vehicles being made available to ply for hire, pick-up at ranks or indeed be booked through various means. Increased industry employment occurs as those previously prevented from entering the market are now free to enter. The desire to enter is informed by the potential for work as signalled through the license premium which was previously secured in areas with entry restrictions. Increased taxi availability potentially triggers a customer response from

⁵³ WebTag Unit 3.4.1. The Accidents sub objective, Department for Transport.

those who had previously suppressed demand and made use of less satisfactory forms of transportation. Taxi drivers potentially benefit from not only access to a previously restricted market and a share of the monopoly rent which accrued to a small group but also from the increase user demand as taxis become visibly more available and provide an obvious means of alternative transportation.

7. Improved social inclusion

The extent to which the removal of entry controls translates into wider benefits depends on councils' approach. Increased numbers generally will improve access to people on low income – however the extent to which the benefit extends to those with particular needs, for example with limited mobility, depends on the type of increased supply that becomes available.

If, for example, zoned licensing were to be introduced, wheelchair accessible vehicles and vehicles restricted to working in particular areas would be made increasingly available. Furthermore, the opening up of the private hire market could encourage providers to diversify and expand. Placing the private hire industry on a national footing could promote access to people in more remote areas, as the most practicable way to meet their requirements may be through sub-contracting or using a driver and vehicle licensed in another area.

Court system

8. Improved understanding/certainty of licensing requirements

This review provides an opportunity to better address touting (where drivers or third parties may actively solicit customers) and to improve enforcement powers as a key aspect of better protecting the public. Our proposed scheme, which would limit the discretion of local authorities in standard setting, could greatly reduce this number. The courts would no longer see the systematic challenging on licensing decisions, conditions and policies by individuals, as many of the standards would be set at a national level and subject only to judicial review. We also suggest that disappointed applicants or licence holders should be able to request that the local authority reconsider its decision, which could reduce the number of issues which end up in court. We would also limit appeals from the magistrates' court.

A clearer, modernised regulatory regime could lead to a significantly reduced number of cases going through the court system. This is particularly true for private hire vehicles, as local authorities would be restricted to applying standards set at a national level, and would not be able to add further requirements. Although licensing authorities would have the power to place additional conditions on taxis and their drivers, these would be more limited. In general, decision-making would be more consistent and give rise to fewer challenges. This would bring significant savings for the courts, licensing authorities and individual applicants.

Council/Enforcement Agencies

9. Savings from not having to do an unmet demand survey

The removal of entry controls means that there will be no need to do an unmet demand survey. This translates into savings for the taxi industry as surveys are generally paid for by the trade and are undertaken on a triennial basis. Surveys cost between £15,000 to £40,000.

We assume 93 councils will complete a survey at some stage over a three year period – the end of quantity controls delivers an annual savings of between 31 x £15,000 (low estimate) to 31 X£40,000 (high estimate) with the best estimate being 31 x £20,000 – £620,000.

Total Annual savings = £620,000 (best estimate)

NPV over 10 years = £5,156,295

10. Reduced number of enforceable activities

A simpler, more coherent and modern legislative framework would make the role of the enforcement officer more straightforward, and perhaps less resource intensive. This ties in with the projected fall in the number of cases reaching court.

11. Reduction in demands on licensing officers' time

Clearer legislation which is easier to apply will save time. Licensing officers will take decisions within a more transparent and simpler framework, assisted by statutory guidance. Furthermore, our proposed reforms will potentially remove some current license holders from the obligation to hold a license. Whilst it is for the Secretary of State and Welsh Ministers to decide what should or should not be included within the scope of licensing, it is our provisional view that services such as childminding and driver guides should not be licensable in this way. Not only will there be a consequent reduction in the number of licensees and applicants, but licensing officers will not be required to spend as much time considering such applications. Our proposals in relation to limousines and the boundaries between private hire and public service vehicle regulation will have a similar effect.

Our proposals aim to provide licensing and enforcement officers with a more effective, more suitable and more powerful suite of tools to employ against unlicensed providers, and against license holders in breach of regulations. We do not necessarily envisage a reduction in enforcement costs and it is of course for licensing authorities to decide how to allocate funds. However, more efficient working invites financial savings.

Where more effective enforcement allowed licensing officers to spend less time on taxi and private hire work and more time on other aspects of their role, the reduction in expenditure would be passed on to licensees by way of reduced license fees.

Table 14: Summary of annual key savings (benefits)* (£million)

	Low estimate	Best estimate	High estimate
<i>On-going</i>			
Reduced regulatory burden (£)	10.75	25.00	56.00
No unmet demand survey (£)	0.47	0.62	1.24
Reduced waiting time (£)	1.24	1.99	2.48
Improved safety (£)	0.04	0.08	0.12
Total On-going (Years 1 – 10)	12.50	27.69	59.84

* rounded to 2 decimal points.

RISKS, ASSUMPTIONS AND SENSITIVITIES

Assumptions:

All the assumptions that underpin specific cost/benefit estimates are indicated alongside the relevant discussion. However there are broader assumptions that inform our approach to the impact assessment and these are as follows:

1. Latent demand responds to improved provision in taxi services and this facilitates the further increase in taxi demand;
2. The groups identified in the consultation paper as potentially excludable from the licensing regimes would all be excluded (eg driver guides, childminders, volunteer drivers);
3. Current arrangements regarding government funding for licensee training remain in place.

Risks:

1. Entry controls are not fully removed and the full benefits are not delivered particularly as it relates to reduced consumer detriment through reduced waiting time – medium risk;
2. Councils do not pursue a managed approach to licensing. This carries the reputational risk to the taxi industry if experienced drivers leave and less experienced drivers provide an inferior service – medium risk.
3. The Secretary of State and Welsh Ministers may choose to exclude fewer groups than indicated in assumption 2. This is a low risk.
4. There is a high risk that given the current economic climate funding of licensee training is no longer available – in which case licensee will be required to self-fund.

Sensitivities

All cost/benefit estimates that rely on a range have been indicated throughout the impact assessment.

Questions

We are considering whether operator licensing should be extended to cover taxi radio circuits. What do you consider to be the benefits of this approach? For example, do you agree that this would allow for more efficient and targeted enforcement, thus both making savings in terms of enforcement resources and deterring unlawful behaviour? Do you think that the additional cost of licensing (approximately £500), which we do not envisage would be significant, will justify the benefits?

We have estimated the average annual increase in the number of taxi/PHV drivers as being 4.0 percent. Do you think that this figure is appropriate?

We have a value for the total household expenditure in England and Wales on taxi journeys (£2.35 billion). We think that business and tourist receipts are likely to add at least a further £2.0 billion so that the true industry revenue value probably lies around £5.0 billion for 2012. Do you agree?

To what extent do you think our proposals will impact on assaults on taxi users? For example, do you agree that a clearer regulatory framework and better enforcement will result in fewer unlicensed vehicles and drivers, as well as less toutting?

To what extent do you think that our proposals will impact on assaults on taxi drivers? Do you agree that driver training will give drivers the tools to deal with situations of conflict? Can you identify any other ways in which our proposals will reduce the incidence of attacks on drivers?

Can licensing authorities identify common areas of legal disputes? And the time and resources taken to deal with them? We are interested in in-house costs and the cost of court attendance.

Statutory equalities

We do not think our proposals will have any adverse equality impact on any social group as defined by their race, religion or belief, sexual orientation, gender, age, or disability.

Please see attached equalities impact assessment.

Competition

We anticipate that our proposals will enhance competition in the market.

We recognise that market forces already work well in the private hire sector. Consumers are able to exercise choice in relation to quality and price, and the market generally provides a positive level of choice and diversity. The healthy operation of the market is evidenced by the belief amongst groups representing disabled passengers that regulation is not needed to ensure accessibility in the private hire sector, as market forces provide an incentive for firms to make accessible vehicles available.

Our reforms will, however, further increase competition within the private hire industry. Our proposals will remove many of the burdens currently placed on those within the sector; for example, cross-border restrictions on operators would be removed and local authorities would no longer be able to place additional, unnecessary and at time arbitrary conditions on private hire licenses. The increased clarity, stability and flexibility of regulation would encourage innovation and expansion within the private hire market. This is particularly true with regards to the adoption of new technology: existing legislation has restricted the ability of those within the private hire sector to do this, and allowing the industry to embrace these developments would lead to greater expansion and competitiveness.

Competition does not operate as well in relation to the taxi market (rank and hail market, as opposed to pre-booked journeys). For the most part, this is as a result of the way in which the market operates: consumers do not exercise choice in selecting a vehicle or driver, and there is no incentive for taxis to behave in a competitive way. Fares must be regulated in order to protect consumers but there is rarely any incentive to charge anything other than the maximum fare set by the local authority. The elements recognised above are elements which it would be impossible to improve upon without removing consumer protection or altering the way in which the sector operates, both of which would have damaging consequences.

However, our proposal to abolish the power to impose restrictions on the number of taxi licences which may be granted would improve competition in those areas in which license numbers are currently restricted. In such areas, licences attract huge premium values due to their scarcity and those in possession of them have not only a good source of investment, but also a monopoly on the available fares. Deregulation of these areas could improve competition in these areas by giving rise to an increase in vehicles on the road, thus encouraging drivers to alter their fares.

Small firms

We do not anticipate that there will be any particular negative effect on small firms beyond minimal familiarisation costs.

As noted above, we believe that our proposals in relation to private hire vehicles will significantly increase the opportunities for these businesses to expand. The majority of private hire operators are micro-businesses of ten or fewer employees, or small and medium enterprises.

Justice system

The impact on the justice system would be twofold. On the one hand, we envisage far fewer appeals against licensing decisions (decisions to grant, refuse, suspend or revoke a licence and apply conditions to a licence). The regulatory framework will be far clearer as to what can and cannot be licensed, and what does and does not require a license. Fewer licenses will result in fewer appeals, as will licensing decisions being taken within a far clearer and simpler legal framework. Minimum safety conditions will be set by the Secretary of State or Welsh Ministers following detailed consultation. Furthermore, licensing authorities will no longer be able to impose additional licensing conditions on private hire vehicles.

On the other hand, we envisage our reforms leading to more and better enforcement. Licensing officers will spend less time tackling complex, outdated legislation, and thus could potentially have more time to spend carrying out

enforcement tasks. At the same time, we propose improving the powers of licensing officers. The combination of these two changes could be that more criminal cases will go to the magistrates' court. However, we are consulting on whether fixed penalty notices might be appropriate for some offences, which would reduce any additional burden.

There is the further aspect of assaults and homicides against drivers and sexual offences against taxi users which also impacts on resource usage of the criminal justice system. The cost to the system from assaults and sexual offence crimes is £172,230 and £3,940 (in 2011 prices) respectively. Police activity accounted for about 10 percent of the amount in the case of homicides and prison service accounts for about 80 percent. The proportionate cost of these two aspects in the case of sexual offences was 50 percent and 20 percent respectively. To the extent that the proposed policy is effectively implemented direct savings to the criminal justice system can be claimed.

Other impacts

Rural areas

Our proposed reforms have a potential impact on rural areas. By emphasising and increasing the cross-border nature of private hire work, stakeholders have informed us that we are likely to increase the number of vehicles flooding city centres. We accept that this may be the case, and that at particular times outlying areas may suffer from a lack of available vehicles.

However, we believe that there will be no negative impact on rural areas. First, it is well recognised that the market functions well in the private hire industry. This would suggest that, where drivers and operators know that work is available in an outlying area, they will work there rather than attempt to get work in an already busy, potentially saturated, city centre. Secondly, we propose allowing licensing authorities to put in place licensing zones. Provision in rural areas could be encouraged through the use of cheaper licensing fees in areas which were susceptible to a lack of supply.

Environment

We recognise that encouraging a greater number of vehicles to take to the road, and perhaps to travel more widely, could have a negative impact on the environment.

Taxis and private hire vehicles account for a very small proportion of UK licensed vehicles. Of the 28.6 million cars registered in the UK in September 2011⁵⁴, only 233,100 of these were licensed taxis and private hire vehicles⁵⁵. The past ten years or so has seen the small but consistent growth in the number of licensed taxi and private hire vehicles. See table 15 below.

⁵⁴ See *Vehicle Licensing Statistics Q3 2011*, at <http://www.dft.gov.uk/statistics/releases/vehicle-licensing-statistics-q3-2011>.

⁵⁵ See latest taxi survey at <http://assets.dft.gov.uk/statistics/releases/taxi-private-hire-vehicle-statistics-2011/taxi-2011.pdf>

Table 15: Number of licensed taxis and private hire vehicles as a proportion of all cars licensed in the UK for selected years

Year	Number of taxis (‘000) (A)	Number of private hire vehicles (‘000) (B)	Total number of licensed cars (‘000) (C)	(A + B)/C (percentage)
12/1999	61.3	N/A	23,974.9	N/A
12/2005	68.0	124.5	25,781.9	0.75
12/2007	73.6	133.0	27,028.1	0.76
12/2009	75.9	150.8	28,160.7	0.81
09/2011	78.0*	155.1*	28,608.1	0.81

* for year ending March 2011

Source: Department for Transport biennial survey of taxis – various reports;

Vehicle Licensing Statistics (<http://www.dft.gov.uk/statistics/series/vehicle-licensing/>);

As a proportion of the total number of licensed vehicles, taxis and private hire vehicles account for less than 1.0 percent. With such a low percentage taxi services cannot be said in themselves to be significant contributors to environmental harm. It may even be argued that taxi services provide a means of reducing carbon emissions. The extent to which this holds true depends on the status of taxis in public transportation.⁵⁶

Within any area there are hot spots of activity – for example urban areas have a busier taxi trade than rural areas. Airports raise particular environmental concerns. The local concern is generally with the number of vehicles and the potential for congestion. Hawthorne et al make two general observations impacting on both vehicle numbers and vehicle mileage as follows:

- (a) Taxi journeys have a higher proportion of empty running to loaded journeys than private cars and
- (b) Taxis have a higher proportion of loaded journeys per vehicle than private cars.

Policies adopted by local authorities can have a direct impact on both aspects and reduce the potential for environmental harm. For example, in the case of airport congestion and the problem of empty running - initiatives aimed at taxi-sharing have been marketed.⁵⁷ Generally taxi voucher schemes and other initiatives that incorporate taxi services into wider public transport⁵⁸ have been identified as reducing the number of vehicle miles travelled. For example, taxi sharing schemes may mean that one trip will suffice to transport up to four people whereas, previously, there would have been four trips.⁵⁹

Health and wellbeing

This impact assessment has been undertaken using the screening questions identified in the Department for Health document “Health impact assessment of government policy”.

Will the proposal have a direct impact on health, mental health and wellbeing?

Our proposals will improve mobility for disabled and elderly people, as well as promoting social inclusion,

⁵⁶ J. Hawthorne and Merz Sinclair Knight, Encouraging the shift from private to public transport – are taxis part of the solution or part of the problem? 2009, Association for European Transport Conference,

⁵⁷ See Hawthorne et al. See also <http://carbonvoyage.com/>, which identifies sharing opportunities.

⁵⁸ A taxi-sharing scheme operates in Bristol on a Friday and Saturday night. Marshalls allocate passengers to vehicles with a view to one vehicle taking people who wish to travel in the same direction.
<http://www.london.gov.uk/sites/default/files/MAQS%20Executive%20Summary%20FINAL.pdf>

⁵⁹ A taxi-sharing scheme was set up at Milton Keynes station in 2010 – see
http://news.bbc.co.uk/local/threecounties/hi/people_and_places/newsid_9264000/9264545.stm (last visited 14 March 2012).

independence and participation. We propose driver training which would specifically cover working with disabled people and persons with reduced mobility. Many disabled passengers complain of a significant degree of danger, discomfort and loss of dignity when travelling by taxi or private hire vehicle. Our proposals on driver training would increase awareness of how disabled passengers prefer to travel, the proper restraint of wheelchairs and how to use specialist equipment.

Standardised conditions of licence for private hire drivers would lead to a consistent approach to medical requirements across England and Wales. These standards would be based on consultation not only with the industry but also with relevant specialists, ensuring an appropriate and proportionate response was taken to medical conditions, and potentially allowing a greater number of people with health problems to undertake this kind of work.

Will the policy have an impact on social, economic and environmental living conditions that would indirectly affect health?

Our proposals will improve employment prospects in those areas which currently restrict the number of taxi licences available. Whilst there is the possibility that they will increase emissions, it is hoped that market forces will limit the potential for expansion. In doing so it will limit wastage and people leaving the market and becoming unemployed.

Will the proposal affect an individual's ability to improve their own health and wellbeing?

Our proposals will allow people, in particular disabled and elderly passengers, to travel more freely. This could allow them to improve their own health and wellbeing, for example by allowing them to shop in a wider range of locations or to access previously unreachable services.

Will there be any change in demand for or access to health and social care services?

The opening-up of the private hire market and removal of restrictions on taxi numbers in those areas which currently restrict taxi licences will promote greater access to health and social care services. There will be no direct change in demand for these services.

Will the proposal have an impact on global health?

No.

APPENDIX C

Response to Law Commission from Swindon Borough Council. Via NALEO July 2012

LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

OVERVIEW OF PROVISIONAL REFORM PROPOSALS

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept prebooked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares.

YES

REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform.

YES

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver.

NO TYPE OF VEHICLE SHOULD REMAIN WITH LOCAL AUTHORITY.

Question 4

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

TO EXCLUDE VEHICLES SUCH AS PEDICABS AND RICKSHAWS

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers.

YES

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. (Page 166

YES OUTDATED TERMINOLOGY

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency.

YES

Provisional proposal 8

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service.

YES

Question 9

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

- (a) carpooling; and
- (b) members clubs?

THESE SHOULD BE EXCLUDED FROM PRIVATE HIRE LEGISLATION

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes.

YES

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation.

NO WEDDINGS AND FUNERALS SHOULD CONTINUE TO BE EXCLUDED

Question 12

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

NO CHAUFFEUR COMPANIES SHOULD MEET NATIONAL AND LOCAL PRIVATE HIRE CONDITIONS

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets". (Page 175)

SHOULD APPLY TO ALL AREAS INCLUDING PRIVATE LAND AND AIRPORTS

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank?

YES WITHIN THE CONFINES OF THE AIRPORT

Provisional proposal 15

The defining feature of taxis, the concept of "plying for hire", should be placed on a statutory footing and include:

- (a) references to ranking and hailing;
- (b) a non-exhaustive list of factors indicating plying for hire; and
- (c) appropriate accommodation of the legitimate activities of private hire vehicles.

YES CLARIFICATION REQUIRED

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services.

YES

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of "arrangements made in a public place" instead of "plying for hire"?

NO NOT SURE IF THERE IS ANY REAL DIFFERENCE AS THE CURRENT LEGISLATION RELATES TO BEING IN A "PUBLIC PLACE"

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained.

YES IMPORTANT IN RELATION TO COMBATTING DISCRIMINATION

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked.

YES

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.

YES

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements.

YES

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned.

YES TO AVOID CONFUSION

Question 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “prebooked” and did not otherwise lead to customer confusion?

YES THIS HAS BEEN AN ISSUE IN THE PAST AND PROVIDED IT WAS USED IN CONJUNCTION WITH THE TERM “PREBOOKED” THIS WOULD BE A GOOD COMPROMISE

A REFORMED REGULATORY FRAMEWORK**Provisional proposal 24**

Taxi and private hire services should each be subject to national safety requirements.

YES

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards.

YES

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards.

YES

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers.

NO A LOCAL KNOWLEDGE TEST HAS PROVED INVALUABLE

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable?

YES BUS LANE SIGNAGE

Question 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles?

TYPES OF USAGE FROM CITY TO RURAL

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services?

NO

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety.

YES

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement.

YES

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel?

YES

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards.

YES

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards?

YES

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators?

YES

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements?

A STATUTORY FOOTING

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting.

YES IN PRINCIPAL

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area.

YES ALTHOUGH NO EXPERIENCE OF THIS SITUATION

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority?

NO THIS WOULD HAVE AN ADVERSE EFFECT ON THE TRADE AS A WHOLE

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority.

NO THE CURRENT RESTRICTIONS ENSURES ENFORCEMENT ACTIVITY IS RELEVANT

Provisional proposal 42

We do not propose to introduce a “return to area” requirement in respect of out of-area drop offs.

NOT REQUIRED

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares.

Licensing authorities should not have the power to regulate private hire fares.

YES

YES SHOULD NOT HAVE THE POWER TO REGULATE PRIVATE HIRE FARES

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys?

YES PROVIDED IT IS AGREED BEFORE THE JOURNEY COMMENCES

REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING**Question 45**

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions?

(A) SET OUT IN PRIMARY LEGISLATION

Provisional proposal 46

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself.

YES

Question 47

Should national vehicle safety standards be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions?

(A) SET OUT IN PRIMARY LEGISLATION

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles.

YES

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis?

NO

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries.

YES NO CHANGE THE DEFINITION OF OPERATOR IS NECESSARY

Question 51

Should “fit and proper” criteria in respect of operators be retained?

YES

Provisional proposal 52

Operators should be expressly permitted to sub-contract services.

YES PROVIDED THEY REMAIN LIABLE FOR THE ORIGINAL BOOKING IN THE CASE OF COMPLAINT

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply?

YES

REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers.

YES

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers?

NOT ENOUGH RANK SPACE , INCREASED VEHICLE NUMBERS AND SUBSEQUENT ENVIRONMENTAL IMPACT. ALTHOUGH HERE IN SWINDON THERE HAS BEEN NO SUBSTANTIAL INCREASE IN HACKNEY NUMBERS SINCE DERESTRICTION IN 2006.

Question 56

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

YES

TAXI AND PRIVATE HIRE REFORM AND EQUALITY

Question 57

Should there be a separate licence category for wheelchair accessible vehicles?

This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles.

NO

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards?

NO

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers?

LOCAL CONDITIONS ON VEHICLE TYPE

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles.

SHOULD BE LEFT TO LOCAL CONDITIONS

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training.

YES

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority.

YES

Question 63

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

NO TO DIFFICULT TO ADMINISTER CURRENT PENALTIES UNDER THE EQUALITY ACT 2010 SUFFICIENT

REFORMING ENFORCEMENT

Question 64

Should authorised licensing officers have the power to stop licensed vehicles?

YES

Question 65

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”.

BETTER ENFORCEMENT POWERS TO OFFICERS INCLUDING FIXED PENALTIES

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules?

DESIRABLE BUT NOT PRACTICABLE

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how?

YES ENFORCEMENT OFFICERS WITH THE POWER TO ISSUE FIXED PENALTIES FOR PLYING FOR HIRE AND OTHER LICENSING BREACHES FAILING TO DISPLAY BADGES OR PLATES WOULD SAVE A LOT OF PAPERWORK AND COURT TIME

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas.

YES IF OPERATORS ARE ALLOWED TO USE DRIVERS AND VEHICLES FROM OTHER AREAS AS PROPOSED OR IN THE CASE OF CROSS BORDER HIRING

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this?

NOT SURE IF THIS IS POSSIBLE I THINK ANY EVIDENCE WARRANTING SUSPENSION OR REVOCATION SHOULD GO BACK TO THE ORIGINAL LICENSING AUTHORITY

REFORM OF HEARINGS AND APPEALS**Provisional proposal 70**

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence.

YES

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision.

YES AS AT PRESENT VIA COMMITTEE

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court.

YES

Question 73

Should there be an onward right of appeal to the Crown Court?

YES

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