

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YES OUTDATED TERMINOLOGY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