

**BIRMINGHAM CITY COUNCIL**

**REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT  
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**24 OCTOBER 2018**  
**ALL WARDS**

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

1. Summary
  - 1.1 This report summarises the recommendations of the Department of Transport Task and Finish Group on Taxi and Private Hire Vehicle Licensing.
2. Recommendations
  - 2.1 That the report be noted.
  - 2.2 That a letter be sent to the appropriate Government Minister(s) on behalf of the Committee, urging a swift response to these proposals.

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### 3. Background

3.1 The Task and Finish Group was started in the summer of 2017 by the then Minister of State for Transport the Rt Hon John Hayes CBE MP, and met for the first time in September 2017 with the aim of considering evidence relating to the adequacy of current taxi and PHV licensing authority powers, as set out in legislation and guidance, making recommendations for actions to address any priority issues identified.

3.2 The group comprised:

- Helen Chapman -Director of Licensing, Regulation & Charging, Transport for London
- Rt Hon Frank Field MP --Member of Parliament for Birkenhead
- Saskia Garner -Policy Officer, Personal Safety, the Suzy Lamplugh Trust
- Ellie Greenwood -Senior Adviser (Regulation), Local Government Association
- Dr Michael Grenfell -Executive Director, Enforcement, Competition and Markets Authority
- Anne Main MP -Member of Parliament for St Albans
- Steve McNamara -General Secretary, Licensed Taxi Drivers' Association
- Mick Rix -National Officer for Transport and Distribution, GMB union
- Donna Short -Director, National Private Hire and Taxi Association
- Steve Wright MBE -Chairman, Licensed Private Hire Car Association

3.3 Birmingham City Council Licensing Service was not asked to contribute to the group. The report of the Select Committee itself is 68 pages long. It is available to view online at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/745098/taxi-and-phv-working-group-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/745098/taxi-and-phv-working-group-report.pdf)

### 4. Summary of Task and Finish Group Recommendations

4.1 The summary of Select Committee Conclusions and Recommendations is attached at Appendix 1 to this report.

4.2 Many of the recommendations require the Government to introduce either Legislation or Statutory Guidance.

4.3 A number of proposals suggest that Licensing Authorities should make the recommended changes in anticipation of revised guidance or legislative change, risking different approaches being taken in the various authorities – one of the very things the group is seeking to avoid.

- 4.4 The Task and Finish Group is only able to make recommendations. It is expected the Government will publish a response to this document, at which point a further report will be brought to this Committee.
- 4.5 There have been previous reports and groups established to consider the effectiveness of the existing Hackney Carriage and Private Hire licensing regimes, most notably the 2011 Law Commission review which reported back in 2014. Those proposals were not taken forward.
- 4.6 The Legislation is outdated and is in serious need of updating or replacing. The situation at the moment is detrimental to public safety as well as to the trade itself, with many legal loopholes being widely exploited, leaving Licensing Authorities powerless to respond.
- 4.7 The subject has been raised with various Ministers many times, but Officers have suggested that the Chair write to the current Minister expressing the urgency for this matter to be responded to conclusively.

## 5. Implications for Resources

- 5.1 At this early stage there are no implications for resources, although, if the proposals are all adopted by Government, there will be serious implications for the future of the Licensing Service.
- 5.2 Once the Government has responded to the proposals the likely impact of any changes will be clearer.

## 6. Implications for Policy Priorities

- 6.1 This work supports the Regulation and Enforcement Division's mission statement to provide 'locally accountable and responsive fair regulation for all - achieving a safe, healthy, clean, green and fair trading city for residents, business and visitors'.

## 7. Public Sector Equality Duty

- 7.1 This report is for information only. An Equalities Impact Assessment is not required.

## 8. Consultation

- 8.1 The Task and Finish Group was limited in its constitution and did not call for evidence from all Local Authorities.

## **DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: nil

**APPENDIX 1****Task and Finish Group on Taxi and Private Hire Vehicle Licensing:  
Recommendations and Comments.**

<b>Recommendations</b>	<b>Current Position / Officer Comments</b>
<b>Recommendation 1</b>	
Notwithstanding the specific recommendations made below, taxi and PHV legislation should be urgently revised to provide a safe, clear and up to date structure that can effectively regulate the two-tier trade as it is now.	Agreed
<b>Recommendation 2</b>	
Government should legislate for national minimum standards for taxi and PHV licensing -for drivers, vehicles and operators (see recommendation 6). The national minimum standards that relate to the personal safety of passengers must be set at a level to ensure a high minimum safety standard across every authority in England. Government must convene a panel of regulators, passenger safety groups and operator representatives to determine the national minimum safety standards. Licensing authorities should, however, be able to set additional higher standards in safety and all other aspects depending on the requirements of the local areas if they wish to do so.	This panel should include better representation for Licensing Authorities outside of London.
<b>Recommendation 3</b>	
Government should urgently update its Best Practice Guidance. To achieve greater consistency in advance of national minimum standards, licensing authorities should only deviate from the recommendations in exceptional circumstances. In this event licensing authorities should publish the rationale for this decision. Where aspects of licensing are not covered by guidance nor national minimum standards, or where there is a desire to go above and beyond the national minimum standard, licensing authorities should aspire to collaborate with adjoining areas to reduce variations in driver, vehicle and operator requirements. Such action is particularly, but not exclusively, important within city regions.	Agreed

<b>Recommendation 4</b>	
In the short-term, large urban areas, notably those that have metro mayors, should emulate the model of licensing which currently exists in London and be combined into one licensing area. In non-metropolitan areas collaboration and joint working between smaller authorities should become the norm. Government having encouraged such joint working to build capacity and effectiveness, working with the Local Government Association, should review progress in non-metropolitan areas over the next three years.	The current Birmingham City Council Licensing Service administers and enforces across more than just HC&PH licensing. This would have a significant impact on the way in which the service operates, and would require the City Council to relinquish control of it's licensing function to the Mayor's Office.
<b>Recommendation 5</b>	
As the law stands, 'plying for hire' is difficult to prove and requires significant enforcement resources. Technological advancement has blurred the distinction between the two trades. Government should introduce a statutory definition of both 'plying for hire' and 'pre-booked' in order to maintain the two-tier system. This definition should include reviewing the use of technology and vehicle 'clustering' as well as ensuring taxis retain the sole right to be hailed on streets or at ranks. Government should convene a panel of regulatory experts to explore and draft the definition.	The existing case law has informed our approach to date. If clarification leads to better understanding and therefore better compliance, or better results at Court, then this is to be welcomed.
<b>Recommendation 6</b>	
Government should require companies that act as intermediaries between passengers and taxi drivers to meet the same licensing requirements and obligations as PHV operators, as this may provide additional safety for passengers (e.g. though greater traceability).	This would help to address the discrepancies between regulation of operators and radio circuits etc
<b>Recommendation 7</b>	
Central Government and licensing authorities should 'level the playing field' by mitigating additional costs faced by the trade where a wider social benefit is provided – for example, where a wheelchair accessible and/or zero emission capable vehicle is made available.	The Licensing service operates on a cost recovery basis. Any 'mitigations' offered to the trade would ultimately be funded by the trade. Unless additional funds are provided by Government or the City Council

<b>Recommendation 8</b>	
Government should legislate to allow local licensing authorities, where a need is proven through a public interest test, to set a cap on the number of taxi and PHVs they license. This can help authorities to solve challenges around congestion, air quality and parking and ensure appropriate provision of taxi and private hire services for passengers, while maintaining drivers' working conditions.	There is already scope to limit hackney carriage licences, it would be sensible to apply the same provisions to private hire.
<b>Recommendation 9</b>	
All licensing authorities should use their existing powers to make it a condition of licensing that drivers cooperate with requests from authorised compliance officers in other areas. Where a driver fails to comply with this requirement enforcement action should be taken as if the driver has failed to comply with the same request from an officer of the issuing authority.	Clarification would be required as to who would take the enforcement action? The licence issuing authority, or the one which had experienced the obstruction?
<b>Recommendation 10</b>	
Legislation should be brought forward to enable licensing authorities to carry out enforcement and compliance checks and take appropriate action against any taxi or PHV in their area that is in breach of national minimum standards (recommendation 2) or the requirement that all taxi and PHV journeys should start and/or end within the area that issued the relevant licences (recommendation 11).	The issue of how this enforcement would be funded needs to be addressed. If an area is 'flooded' with externally licensed vehicles then the cost of compliance checks will increase. The nature of the trade means this will not be a case of the burdens being balanced across the areas.
<b>Recommendation 11</b>	
Government should legislate that all taxi and PHV journeys should start and/or end within the area for which the driver, vehicle and operator (PHV and taxi – see recommendation 6) are licensed. Appropriate measures should be in place to allow specialist services such as chauffeur and disability transport services to continue to operate cross border.	It has been suggested that this proposal would have a detrimental impact on other matters such as air quality - but this would seem to be one way of dealing with the issue of cross border problems.
Operators should not be restricted from applying for and holding licences with multiple authorities, subject to them meeting both national standards and any additional requirements imposed by the relevant licensing authority.	There are no such restrictions currently.

<b>Recommendation 12</b>	
Licensing authorities should ensure that their licensing, administration and enforcement functions are adequately resourced, setting fees at an appropriate level to enable this.	The fee structure is calculated according to the previous year's expenditure, but with regard to future circumstances. This means, if it is felt expenditure is required in a particular area, and this is considered to be a reasonable and justifiable expense, it will be implemented. The fee calculation methods differ across authorities.
<b>Recommendation 13</b>	
Legislation should be introduced by the Government as a matter of urgency to enable Transport for London to regulate the operation of pedicabs in London.	n/a
<b>Recommendation 14</b>	
The Department for Transport and Transport for London should work together to enable the issue of Fixed Penalty Notices for both minor taxi and PHV compliance failings. The Department for Transport should introduce legislation to provide all licensing authorities with the same powers.	The income from the FPNs would also need to be ring-fenced. Who would be liable – the driver or the vehicle proprietor? Also, is this just for vehicular failings or driver /operator (i.e. badge offence etc)
<b>Recommendation 15</b>	
All ridesharing services should explicitly gain the informed consent of passengers at the time of a booking and commencement of a journey.	This can be addressed through conditions
<b>Recommendation 16</b>	
The Department for Transport must as a matter of urgency press ahead with consultation on a draft of its Statutory Guidance to local licensing authorities. The guidance must be explicit in its expectations of what licensing authorities should be doing to safeguard vulnerable passengers. The effectiveness of the guidance must be monitored in advance of legislation on national minimum standards.	

<b>Recommendation 17</b>	
<p>In the interests of passenger safety, particularly in the light of events in towns and cities like Rochdale, Oxford, Newcastle and Rotherham, all licensed vehicles must be fitted with CCTV (visual and audio) subject to strict data protection measures. Licensing authorities must use their existing power to mandate this ahead of inclusion in national minimum standards. To support greater consistency in licensing, potentially reduce costs and assist greater out of area compliance, the Government must set out in guidance the standards and specifications of CCTV systems for use in taxis and PHVs. These must then be introduced on a mandatory basis as part of national minimum standards.</p>	<p>There have been many contradictory opinions on the subject of CCTV in licensed vehicles/ Specific guidance on this subject would be welcomed - particularly with regard to the data controller role.</p>
<b>Recommendation 18</b>	
<p>As Government and local authorities would benefit from a reduction in crime in licensed vehicles both should consider ways in which the costs to small businesses of installing CCTV can be mitigated.</p>	<p>As with recommendation 7, any 'mitigations' offered to the trade by the Licensing Service would ultimately be funded by the trade.. Unless additional funds are provided by Government or the City Council</p>
<b>Recommendation 19</b>	
<p>National standards must set requirements to assist the public in distinguishing between taxis, PHVs and unlicensed vehicles. These should require drivers to have on display (e.g. a clearly visible badge or arm-band providing) relevant details to assist the passengers in identifying that they are appropriately licensed e.g. photograph of the driver and licence type i.e. immediate hire or pre-booked only. All PHVs must be required to provide information to passengers including driver photo ID and the vehicle licence number, in advance of a journey. This would enable all passengers to share information with others in advance of their journey. For passengers who cannot receive the relevant information via digital means this information should be available through other means before passengers get into the vehicle.</p>	<p>It is already a requirement for the drivers to wear a badge. It is not clear what 'other means' would be able to be employed in this situation. (It is assumed that the reference to PHV's in this recommendation means PHV Operators – not the vehicles..)</p>



<b>Recommendation 20</b>	
All drivers must be subject to enhanced DBS and barred lists checks. Licensing authorities should use their existing power to mandate this ahead of inclusion as part of national minimum standards. All licensing authorities must require drivers to subscribe to the DBS update service and DBS checks should must be carried out at a minimum of every six months. Licensing authorities must use their existing power to mandate this ahead of inclusion as part of national standards.	The current requirement for BCC Licensed drivers is 3 yearly checks. This would be a significant increase in the administration time.
<b>Recommendation 21</b>	
Government must issue guidance, as a matter of urgency, that clearly specifies convictions that it considers should be grounds for refusal or revocation of driver licences and the period for which these exclusions should apply. Licensing authorities must align their existing policies to this ahead of inclusion in national minimum standards.	In the absence of national standards, Birmingham Licensing and Public Protection Committee agreed to adopt the Institute of Licensing guidance as best practice.
<b>Recommendation 22</b>	
The Quality Assurance Framework and Common Law Police Disclosure Provisions must be reviewed to ensure as much relevant information of conduct as well as crimes, by taxi and PHV drivers (and applicants) is disclosed ensuring that licensing authorities are informed immediately of any relevant incidents.	This is absolutely essential. There are significant inconsistencies of approach with regard to the information willingly shared by the police.
<b>Recommendation 23</b>	
All licensing authorities must use the National Anti-Fraud Network (NAFN) register of drivers who have been refused or had revoked taxi or PHV driver licence. All those cases must be recorded, and the database checked for all licence applications and renewals. Licensing authorities must record the reasons for any refusal, suspension or revocation and provide those to other authorities as appropriate. The Government must, as a matter of urgency, bring forward legislation to mandate this alongside a national licensing database (recommendation 24).	We are awaiting the account details to be able to participate in this initiative.

<b>Recommendation 24</b>	
As a matter of urgency Government must establish a mandatory national database of all licensed taxi and PHV drivers, vehicles and operators, to support stronger enforcement.	This is a matter of absolute urgency. A register of this kind is essential for the safeguarding of the public.
<b>Recommendation 25</b>	
Licensing authorities must use their existing powers to require all drivers to undertake safeguarding/child sexual abuse and exploitation awareness training including the positive role that taxi/PHV drivers can play in spotting and reporting signs of abuse and neglect of vulnerable passengers. This requirement must form part of future national minimum standards.	This is already a requirement for Birmingham licensed drivers.
<b>Recommendation 26</b>	
All individuals involved in the licensing decision making process (officials and councillors) must be obliged to undertake appropriate training. The content of the training must form part of national minimum standards.	This is already the case in Birmingham, although a nationally accredited training scheme would be helpful to ensure consistency across the country.
<b>Recommendation 27</b>	
Government must review the assessment process of passenger carrying vehicle (PCV) licensed drivers and/or consideration of the appropriate boundary between taxis/PHVs and public service vehicles (PSVs).	Definitely. It would be helpful if the PCV application process also included the need to check the NAFN register.
<b>Recommendation 28</b>	
Licensing authorities must require that all drivers are able to communicate in English orally and in writing to a standard that is required to fulfil their duties, including in emergency and other challenging situations.	Communication skills form part of the Knowledge tests (both HC and PH)
<b>Recommendation 29</b>	
All licensing authorities should use their existing powers to require that the taxi and PHV drivers they license undergo disability quality and awareness training. This should be mandated in national minimum standards.	This is already a requirement for Birmingham licensed drivers.

<b>Recommendation 30</b>	
Licensing authorities that have low levels of wheelchair accessible vehicles (WAVs) in their taxi and PHV fleet should ascertain if there is unmet demand for these vehicles. In areas with unmet demand licensing authorities should consider how existing powers could be used to address this, including making it mandatory to have a minimum number of their fleet that are WAVs. As a matter of urgency, the Government's Best Practice Guidance should be revised to make appropriate recommendations to support this objective.	This is an area of concern which requires further investigation.
<b>Recommendation 31</b>	
Licensing authorities which have not already done so should set up lists of wheelchair accessible vehicles (WAVs) in compliance with s.167 of the Equality Act 2010, to ensure that passengers receive the protections which this provides.	This is a statutory requirement. This list is available on our website.
<b>Recommendation 32</b>	
Licensing authorities should use their existing enforcement powers to take strong action where disability access refusals are reported, to deter future cases. They should also ensure their systems and processes make it as easy as possible to report disability access refusals.	This is already the case in Birmingham.
<b>Recommendation 33</b>	
The low pay and exploitation of some, but not all, drivers is a source of concern. Licensing authorities should take into account any evidence of a person or business flouting employment law, and with it the integrity of the National Living Wage, as part of their test of whether that person or business is "fit and proper" to be a PHV or taxi operator.	If there is evidence of convictions, cautions or similar for breaches of this kind, they may be considered as part of the application process. It is difficult to adduce unsubstantiated complaints which relate to an area outside of our jurisdiction. That is to say, the licensing service should not be expected to carry out investigations into pay and conditions
<b>Recommendation 34</b>	
Government should urgently review the evidence and case for restricting the number of hours that taxi and PHV drivers can drive, on the same safety grounds that restrict hours for bus and lorry drivers.	This is a very important measure to safeguard both the public and the drivers