



<u>Committee and Date</u> Strategic Licensing Committee 13 June 2012	<u>Item</u> 9 <u>Public</u>
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Law Commission Consultation – Reform of Hackney Carriage and Private Hire Law

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1. Summary

- 1.1 On 10th May 2012, the Law Commission launched its consultation on proposed changes to the way taxis and private hire vehicles are regulated. The consultation runs until 10th August 2012. The Law Commission states that its review of taxi and private hire services provides an opportunity to simplify and improve the current law so it can deliver a better deal for consumers, including disabled passengers, while removing unnecessary burdens on business.
- 1.2 A statement was made at the Strategic Licensing Committee on 8 June 2011 by the Chairman regarding the Council's commitment to ensuring that people with any disability have equal access to services. The Council's policy regarding wheelchair accessible hackney carriages was to be reviewed when Government regulation or guidance was produced. Alternatively, if the Government failed to produce any guidance in the following 12 months the matter would be considered again in any case.
- 1.3 No Government regulation or guidance has been produced since that statement was made in 2011. However, the Law Commission's comprehensive consultation covers a wide range of issues, including zoning, improving provisions for persons with disabilities and enforcement.

2. Recommendations

- 2.1 No amendments are made to zoning or the current policy which requires all hackney carriages in zone 4 (old Shrewsbury and Atcham Borough Council area) to be of a wheelchair accessible design and no policy requirement for wheelchair accessibility in the other four zones until the outcome of the Law Commission consultation is known.
- 2.2 A working group is set up to consider the Law Commission's consultation proposals. The findings of the working group are to be reported back to a special meeting of the Strategic Licensing Committee prior to the end of the consultation period on 10 August 2012 so that a response can be submitted.

REPORT

3. Risk Assessment and Opportunities Appraisal

3.1 The recommendation complies with the Council's duties under the Equalities Act 2010. The impact of proposals set out in the Law Commission's consultation need to be risk assessed and considered as proposed in the recommendation before any changes are made to zoning and provision for disabled passengers.

4. Financial Implications

4.1 There are no financial implications associated with this recommendation.

5. Background

5.1 The Law Commission announced, last summer, that it was to review the existing framework of taxi and private hire vehicle regulation with a view to preparing proposals for consultation. The review examined the legal framework relating to hackney carriages and private hire vehicles with a view to modernising it and making it simpler.

5.2 The Law Commission published its proposals for reform in its consultation launched on 10th May 2012 available on-line at <http://lawcommission.justice.gov.uk/consultations/1804.htm>. A summary of the consultation paper is attached to this report at Appendix 1. The consultation will run for a three month period ending on 10th August 2012. The Law Commission propose a new Act to regulate the provision of taxi and private hire vehicle services in England and Wales.

5.3 Following the consultation, the Law Commission plans to publish a final report with a draft Bill in November 2013. It will then be for Parliament to decide whether to change the law.

5.4 The proposals retain the important distinction between taxis – which can “ply for hire” on the street or a cab rank – and private hire vehicles which can only be pre-booked. However, all vehicles would be subject to national minimum safety standards and, for private hire vehicles; these would replace more than 340 sets of local regulations. The aim is to reduce the burden on business because, once appropriately licensed, a private hire firm could work freely across the country, without geographical restrictions. This aims to contribute to widening consumer choice and to making services cheaper and more competitive.

5.4 The Law Commission's provisional proposals include questions on how to promote safety for disabled passengers as well as compulsory disability discrimination training for taxi and private hire drivers.

5.5 The consultation paper is divided into three parts:

Part 1 includes an introduction to the consultation paper; and sets out the key elements of the current law and regulatory framework. This includes an overview of the local licensing system (Chapter 2), key definitions and scope (Chapter 3), licensing controls relating to drivers, vehicles and operators (Chapter 4), enforcement (Chapter 5) and hearings and appeals (Chapter 6).

Part 2 identifies problems in the current law and the case for reform. It discusses the regulatory principles and the two-tier debate (Chapter 7) followed by an analysis of problems with the law and the case for reform (Chapter 8). It looks at quantity restrictions (Chapter 9) and cross-border issues (Chapter 10). It considers equality and the concerns of disabled passengers (Chapter 11) as well as the impact of technology (Chapter 12).

Part 3 sets out provisional proposals for reform, starting with an overview (Chapter 13), followed by the core definitions and scope of reform (Chapter 14) and the reformed regulatory framework (Chapter 15). It then considers reforms in respect of driver, vehicle and operator licensing (Chapter 16), quantity restrictions (Chapter 17), equality (Chapter 18) and enforcement (Chapter 19). The discussion of reform proposals is concluded by considering possible changes to hearings and appeals (Chapter 20).

5.6 Highlighted below are some of the more significant aspects of the reforms that the Law Commission proposes to develop during the course of the consultation:

5.6.1 National minimum safety standards for both taxis and private hire vehicles.

5.6.2 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 the consultation asks about possible exceptions where local private hire standards may be retained, for example, in respect of signage.

5.6.3 It would be easier for private hire services to operate on a national basis. The consultation suggests that 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. Subcontracting would be allowed, as is already the case in London.

5.6.4 London would be regulated under the same flexible framework as the rest of England and Wales.

5.6.5 Licensing authorities could no longer limit the number of taxi licences.

5.6.6 More enforcement powers for licensing officers against out-of-borough vehicles and drivers.

5.6.7 Disability awareness training for drivers.

- 5.6.8 Introduction of a statutory definition of “plying for hire” (but without changing it in substance).
 - 5.6.9 Weddings and funeral cars would no longer be exempted through primary legislation.
 - 5.6.10 Allowing leisure use of taxis and private hire vehicles.
 - 5.6.11 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.
 - 5.6.12 Clearer exclusions for volunteers and other services where transport is not the main service provided, such as childminders.
 - 5.6.13 Powers for government to issue binding statutory guidance to create greater consistency in how taxi and private hire legislation is applied.
- 5.7 The consultation also asks questions about the following:
- 5.7.1 a new category of wheelchair accessible vehicles;
 - 5.7.2 extending operator licensing to taxi radio circuits;
 - 5.7.3 possible use of the term “taxi” in respect of private hire services if used in phrases like “pre-booked taxi only”;
 - 5.7.4 reintroducing a (revised) contract exemption;
 - 5.7.5 improving the enforcement powers of licensing officers; and
 - 5.7.6 a new “peak time” taxi licence that could only be used at particular times of day as decided by the licensing authority.
- 5.8 The headline points of the consultation are simplified in paragraphs 5.6 and 5.7 and does not include all the changes proposed.
- 5.9 The list of provisional proposals and questions from the consultation are attached at Appendix 2.

Additional Information

- 6.1 In March 2011, following detailed consultation, the Strategic Licensing Committee approved a new set of standard conditions for Shropshire Council and new sets of fares for each hackney carriage zone.
- 6.2 The Council looked at removing hackney carriage zones to add to this work and carried out consultation between October 2009 and February 2011. It

was recognised that before moving forward, a comprehensive common set of hackney carriage vehicle policies, which take into account the different requirements and policies in the various parts of the county, was needed. A major consideration at the time was the Equalities legislation and the differing situation within the zones regarding wheelchair accessible policies. The existing zones were therefore retained for the time being.

6.3 Taxi zones, based on the previous borough and district council boundaries, are in place for the purpose of licensing hackney carriages. Hackney carriages are taxis that the public are able to hail on the street and at taxi ranks, rather than private hire vehicles that are licensed separately and which must be pre-booked. Hundreds of views were shared during the consultation, and through feedback from taxi forums.

6.4 Due to the legislative position not having changed to date and the launch of the Law Commission's consultation exercise, it is considered that there should be no changes made at the present time to the position regarding the zones.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Law Commission "Taxi and Private Hire Services Consultation" May 2012

Minutes of Strategic Licensing Committee 8 June 2011

Existing Hackney Carriage/Private Hire Policies

Cabinet Member (Portfolio Holder)

Councillor Steve Charmley

Local Member

All

Appendices

Appendix 1 – Taxi and Private Hire Services Consultation Summary

Appendix 2 – Taxi and Private Hire Services Consultation: List of Provisional Proposals and Questions