

# 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](mailto: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).