

To: General Purposes Licensing Committee

Date: 28 May 2012 **Item No:**

Report of: Head of Environmental Development

Title of Report: Consultation on reform of the law of taxi and private hire services

Summary and Recommendations

Purpose of report: To consider and respond to the Law Commission's Consultation on reform of the law of taxi and private hire services

Report Approved by:

Finance: Paul Swaffield
Legal: Daniel Smith

Policy Framework: A vibrant and sustainable economy

Recommendation(s):

The Committee is recommended to:

(i) Consider the information contained in this report and delegate authority to the Head of Environmental Development to draft a response in conjunction with the Chair and Vice-Chair and circulate to Committee members before submitting to the Law Commission.

Introduction

1. On 10th May 2012 the Law Commission issued a wide-ranging consultation on reform of the law of taxi and private hire services. The consultation runs until 10th August 2012.
2. 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, and is independent of the Government.
3. The Law Commission states that "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".

4. The need to reform the current legislation has come about due to what the Law Commission describes as “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.
5. The full consultation papers have been circulated to Members ahead of this Committee meeting, and can also be found online at <http://www.lawcom.gov.uk> (see A-Z of projects > Taxi and Private Hire Services).

The Proposals

6. 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.
7. The Consultation Paper was recently published on 10th May 2012 and is a very lengthy and detailed document; therefore to assist the Committee the key proposed elements of the Law Commission’s proposals are detailed below:
 - National minimum safety standards for both taxis and private hire vehicles.
 - 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.
 - 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. Subcontracting would be allowed, as is already the case in London.
 - London would be regulated under the same flexible framework as the rest of England and Wales.
 - Licensing authorities could no longer limit the number of taxi licences.

- More enforcement powers for licensing officers against out-of-borough vehicles and drivers.
 - Disability awareness training for drivers.
 - Introduction of a statutory definition of “plying for hire” (but without changing it in substance).
 - Weddings and funeral cars would no longer be exempted through primary legislation.
 - Allowing leisure use of taxis and private hire vehicles.
 - 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.
 - Clearer exclusions for volunteers and other services where transport is not the main service provided, such as childminders.
 - Powers for government to issue binding statutory guidance to create greater consistency in how taxi and private hire legislation is applied.
8. The Consultation Papers seek to pose further questions in relation to:
- a new category of wheelchair accessible vehicles;
 - extending operator licensing to taxi radio circuits;
 - possible use of the term “taxi” in respect of private hire services if used in phrases like “pre-booked taxi only”;
 - reintroducing a (revised) contract exemption;
 - improving the enforcement powers of licensing officers; and
 - a new “peak time” taxi licence that could only be used at particular times of day as decided by the licensing authority.

Considerations

9. This Committee has liaised with Officers, the Institute of Licensing and the National Private Hire Association during the last 18 months and developed transparent policies in relation to the taxi and private hire trade (Driver, Vehicle and Operator Application packs, and the Policy on the Relevance of Warnings, Offences, Cautions and Convictions), which are seen nationally as being in keeping with Best Practice and Better Regulation. Our policies have been adopted by other Authorities who have sought to modernise their Taxi Licensing functions. This places the Committee in a very strong position to present its views to the Law Commission as Oxford is seen to be a leading Licensing Authority.

10. However, there are various initiatives and schemes that Officers and Members have been previously keen to implement, that may not become possible should the proposals in relation to “national standards” come into force.
11. Members may feel that it is necessary to ensure that the high standards of the taxi and private hire services that have been already adopted by the Authority are not diluted by this current review, and this be expressed to the Law Commission in any response made.

Proposed Action

12. The Committee is requested to review the information contained in the Law Commission’s full consultation papers, and determine whether it is appropriate to delegate to the Head of Environmental Development the duty of replying to the Consultation in conjunction with Chair and Vice-Chair.

Legal Implications

13. There are no legal implications contained within this report.

Financial Implications

14. Any financial implications contained within this report will be met within existing budgets.

Recommendations

15. The Committee is recommended to:
 - (i) Consider the information contained in this report and delegate authority to the Head of Environmental Development to draft a response in conjunction with the Chair and Vice-Chair and circulate to Committee members for final approval before submitting to the Law Commission.

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