

OXFORD CITY COUNCIL: RESPONSE TO THE LAW COMMISSION REFORMS TO TAXI & PRIVATE HIRE SERVICES

CHAPTER 13 - 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)*

The Council agrees that the two-tier system should continue as this best serves the needs of the Trade and the public, and provides for the most practical protection of consumers.

CHAPTER 14 – REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. *(Page 162)*

The Council agrees that all reforms should include London to ensure national consistency.

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)*

The Council agrees that the regulation of Taxi & Private Hire vehicles should be wide-ranging, but that non-standard vehicles be issued with separate national standards to ensure national consistency and guidance.

Question 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? *(Page 164)*

The Council holds the opinion that the licensing of Taxis and Private Hire vehicles should be restricted to motor vehicles that require a driving licence, and that other types of vehicles should be covered by separate legislation as detailed in the Law Commission proposals. As such, a Local Authority would then have the ability to judge each case (i.e. Pedicabs, Rickshaws, etc) on their own merit and make decision based locally.

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)*

The Council agrees that the proposal would be consistent with current practice.

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. *(Page 166)*

The Council regulates the number of taxis and opposes any reforms that may affect the regulated numbers.

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)*

The Council supports any guidance that would lead to clarity in the licensing of such vehicles.

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)*

The Council supports this proposal in order to prevent unnecessary red tape from hindering this sector of the market.

Question 9

How, if at all, should the regulation of taxis and private hire deal with:

(a) carpooling; and

(b) members clubs? *(Page 170)*

The Council believes that both “carpooling” and “members clubs” should be exempt from these regulatory reforms.

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)*

The Council supports this proposal and any such exempt schemes could then be judged at a local level. However it would assist matters if national standards were put in place for such exclusions before determination as to whether any such scheme would be locally desired.

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. *(Page 172)*

The Council is not aware that such vehicles represent a specific problem in Oxford that would require them to be licensed. However, we are happy to consider this proposal in light of what other responses the Law Commission receive nationally with regard to this matter.

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)*

The Council believes that the setting of criteria by the client should be determined by the client still. If the client uses only licensed taxi & private hire drivers and vehicles this would avoid concerns re: abusing the system or bypassing necessary checks.

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)*

The Council agrees to this proposal in order to promote consistent best practice throughout the Trade.

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)*

The Council believes that the requirements made for taxis and private hire vehicles at airports should be consistent with all other procedures relating to taxi and private hire services.

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)*

The Council agrees that these measures would provide clear guidance to the Trade and Local Authorities and the general public, and provide a transparent legal definition of these matters.

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. *(Page 181)*

The Council agrees that the use of technology should be encouraged, allowing the consumer more choice and allowing the Trade a wider range of opportunities to engage with the public.

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)*

The Council believes that in order to safeguard public interests, all bookings for private Hire should be arranged via an Operator. This will remove any doubt about an offence of plying for hire. The Council is satisfied that its current definition of plying for hire, which was developed with the National Private Hire Association, is more than adequate:

The offence is making one's vehicle available for public hire whilst using a licensed Private Hire vehicle. It is not appropriate for Private Hire drivers to park in prominent positions (i.e. where people are likely to congregate, locations with a high level of footfall, or near a taxi rank), without a pre-booked journey having been provided by the Private Hire Operator.

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained. *(Page 182)*

The Council is committed to tackling all forms of discrimination and therefore agrees that the concept of compellability applicable to taxis be retained.

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)*

The Council concurs with this approach as it provides the best safeguards to the public / consumer.

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)

The Council believes that the burden of proof should rest with the vehicle proprietor to maintain all necessary records to a high quality in order that it may be documented as to when the vehicle is used for licensable duties or non-licensable duties and who is driving the vehicle at all times, in order to provide transparency and aid any necessary enforcement investigations.

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)

The Council believes that such a proposal is very much needed and cites the Guidance issued for other licensing functions as examples of how such information can be utilised by Authorities to ensure consistent practices.

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned.

(Page 185)

Hackney Carriage whilst referred to by the Trade can be seen as outdated to the public. However educating the public as to the differences between taxis and private hire is essential to combat plying for hire offences.

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)*

The Council believes that operators should not be able to use the terms “taxi” or “cab” on the actual private hire vehicle, but that it is acceptable to use these terms in their advertising or paperwork if they employ the services of Hackney Carriages.

CHAPTER 15 – A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements. *(Page 188)*

The Council believes that uniform National standards will provide consistency and a continual modernisation of these services.

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards. *(Page 189)*

The Council concurs with this proposal and welcomes the ability it will have to impose additional standards specific to our locality and customer expectations.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. *(Page 189)*

The Council agrees with this proposal and hopes that it will ensure high levels of public safety, and alignment within Local authorities as to how to work to “Best Practice”. It will also provide clear guidance to the Private Hire trade.

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)*

The Council would seek to retain Local Knowledge Tests for Private Hire and Hackney Carriage Drivers as predominately their work will be local. Whilst it is accepted that technology may assist drivers, clearly a good working knowledge of the area within which a driver works is essential to the provision of good customer service.

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)*

Vehicle signage is a very useful tool to allow Officers and the public to clearly identify a taxi or private hire vehicle. The Council also believes that age limits should be permitted to be imposed on all vehicles to ensure a continual improvement in line with safety standards, emission levels and the image of the City.

Question 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? *(Page 191)*

The Council would wish to retain its current requirement that all taxis are “purpose built nationally recognised Hackney Carriages”, and these vehicles cater for wheelchair users and those seeking immediate hiring. Authorities that allow any vehicle to be a Hackney Carriage will struggle to meet the need for ensuring an adequate fleet of wheelchair accessible vehicles, and we would propose that our model be the national model, and allow other Authorities a period of grace to meet such standards.

Another potential obstacle is that some Authorities have been very proactive in modernising the trade and the vehicles they drive, whereas others have been less so. Therefore a further period of grace may be considered to all the trade in those regions to meet with the proposed National Standards.

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? *(Page 192)*

We believe that the standards should be the same for both elements of the trade, but that the Authority may impose additional standards in relation to its locality in order to meet customer expectations.

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)*

The Council believes that the standards should not only cover safety, but also behaviour, customer service and an understanding of disability awareness – this should be a minimum standard for all drivers.

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)*

We concur that there should be a statutory consultation regarding this matter.

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)*

The Council believes that the standards imposed over the last 2 years would be a very strong base for the Law Commission to utilise as the National standards, and our proposals are included with this submission.

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. *(Page 193)*

The Council agrees that Licensing Authorities are best placed to determine further conditions above those set at a National level in relation to taxi services.

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? *(Page 194)*

The Council is satisfied that in Oxford the taxis are clearly distinguishable from private hire vehicles through an already imposed local condition. We should very much like to maintain our ability to ensure that the two trades are clearly identifiable, and that we can react to and support transport needs specific to our locality.

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? *(Page 194)*

Individual conditions should be permitted to be placed on drivers, proprietors and operators either by the Licensing Authority or the Courts in response to specific issues in the interest of public safety.

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)*

We believe that such cooperation is best left to local arrangements, but the Council would welcome guidance on the matter to ensure consistency between Authorities.

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. *(Page 196)*

The Council agrees with this proposal, however, there would need to be joint agreement between the Authorities to raise standards to a maximum level to ensure broad consistency throughout the relevant districts.

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. *(Page 196)*

The Council would welcome this option.

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)*

Whilst the Council understands the reasoning for this proposal, it may place an unnecessary burden on the role of the Licensing officers to regulate this scenario, and it would require clear and identifiable records be fastidiously maintained by those providing such a peak time service.

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)*

The Council supports this proposal however we would like to see an end to the out-of-district Hackney Carriage services being utilised by Private Hire Operators, who simply wish to obtain more vehicles to carry out work within Oxford. These Hackney Carriages appear to work predominantly as Private Hire Vehicles within Oxford. The drivers and their vehicles are not of the same quality as those licensed by this Council.

Provisional proposal 42

We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs. *(Page 199)*

We agree to this proposal in relation to Private Hire, but would refer you to our comments relating to out-of-district Hackney Carriages in our response to PP41.

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)*

The Council agrees with this proposal in order to ensure that the public are not exploited.

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? *(Page 200)*

If the booking is taken via a Private Hire Operator, then the Council sees no reason why the vehicles should not operate for that journey at the rate agreed by the Operator with the customer.

CHAPTER 16 – 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)*

The Council believes that these standards should be set out in primary legislation to ensure that the Licensing Sub-Committee and the Courts may be reliant on the legislation to support their decisions.

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)*

The Council agrees with this proposal, but would like the Law Commission to consider whether a vehicle owner who continually fails to maintain his or her vehicles should be permitted to obtain such a licence.

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)*

The Council holds the view that the National Safety standards should be included within the Secretary of State and Welsh Minister’s general powers to set such conditions.

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. *(Page 207)*

The Council agrees with this proposal, on the grounds that it protects the customer and assists with public safety.

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? *(Page 208)*

The Council believes that Taxis that are provided with work by Operators should be included in the proposal in order to ensure accurate records of bookings and journeys are maintained.

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. *(Page 209)*

The Council agrees with this proposal.

Question 51

Should “fit and proper” criteria in respect of operators be retained? *(Page 210)*

The Council firmly believes that checks are required for those proposing to run such companies, in order to protect customers.

Provisional proposal 52

Operators should be expressly permitted to sub-contract services. *(Page 210)*

The Council agrees with this proposal, but would refer the Law Commission to our comments relating to out-of-district Hackney Carriages as detailed in our response to PP41.

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? *(Page 210)*

The Council is of the opinion that all pre-booked jobs should be recorded, in order to ensure accurate records journeys are maintained, and to safeguard the interests of the public.

CHAPTER 17 – REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers. *(Page 213)*

We disagree. The Council believes that it is best placed to determine the transport needs of its locality. We say this as our knowledge of local services, roads, transport facilities and the needs of those who live, work and visit Oxford is extensive.

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? *(Page 213)*

Deregulation would lead to traffic congestion, pollution, illegal parking (due to limited rank space) and less compliance by the Trade who are all seeking to earn money in a harsh financial climate. We believe this will lead to disputes amongst drivers.

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)

Should the Government proceed with deregulation, then the Council would wish to impose our current requirement that all taxis are “purpose built nationally recognised Hackney Carriages” in order to ensure the highest quality and most adaptable vehicles provide such a service. This in itself would prevent a sharp increase in numbers as the purchase cost of such vehicles are higher than of those for standard private hire vehicles.

By permitting prudent vehicle age limits a Local Authority can ensure high standards, and prevent the issues arising as detailed in our response to Q55.

CHAPTER 18 – 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)

If a requirement for all Taxis is that they are all purpose built nationally recognised taxis, then every Local Authority will be able to ensure a good quota of wheelchair accessible vehicles and a widely accessible service to meet customer needs.

Oxford already operates conditions relating to taxi drivers giving due assistance to disabled passengers and that a driver may not refuse a fare requested by such a customer.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? (Page 217)

The licence fee should be calculated on administration, material and enforcement costs, any discounts given would give the impression that it costs less to carry out such a service.

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)

The Council refers the Law Commission to our comments in response to Q57.

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. *(Page 218)*

The Council agrees to this proposal but asks the Law Commission to consider our comments in response to Q57.

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. *(Page 219)*

The Council already requires all new applicants to undertake a Disability Awareness Course, and therefore we support this proposal.

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)*

The Council agrees with this proposal, as many customers only complain to the driver or operator and do not realise that the Licensing Authority has the power to investigate and take enforcement measures.

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)*

The Council approves this idea, however enforcing the matter may not be so easy.

CHAPTER 19 – REFORMING ENFORCEMENT

Question 64

Should authorised licensing officers have the power to stop licensed vehicles? *(Page 222)*

The Council believes that it's Licensing officers should be given such powers in order to tackle issues of non-compliance on the spot.

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)*

If touting is carried out in a licensed vehicle, the power to remove the licence plate and immediately suspend both the driver and vehicle until determined by the Sub-Committee would assist greatly.

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)*

The Council believes that such actions would create additional work and potentially loss of revenue, and therefore believe that failures to meet with the requirements of the rules should be dealt with via Enforcement Policies such as our own (included with our submission).

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how? *(Page 225)*

The Council supports such a possibility, and would hope that the issue of fixed penalties would lead to greater compliance within the Trade.

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. *(Page 225)*

The Council supports this proposal but believes that the matter should be referred back to the authority who issued the licence in order that they carry out such actions.

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)*

The Council believes that our response to PP68 would be the best approach in this matter.

CHAPTER 20 – 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)*

The Council supports this proposal and does not see why this option should be available to other parties.

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)*

The Council supports this proposal, but would require different Members to sit on the Sub-Committee that determined an appeal. This would also be more cost effective for Local authorities.

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court. *(Page 232)*

The Council supports the view that further appeals should be heard in the Magistrates Court, and would advise other Authorities to ensure that their Policies are clearly defined in order that the Courts may refer to them.

Question 73

Should there be an onward right of appeal to the Crown Court? *(Page 233)*

The Council believes there should be an onward right of appeal to the Crown Court, especially in test cases.

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