

Licensed Private Hire Car Association



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South Cambridgeshire District Council
South Cambridgeshire Hall
Cambourne Business Park
Cambourne
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BY EMAIL

31st January 2020

Dear Jen,

Subject: Consultation on Proposed Hackney Carriage & Private Hire Licensing Policy (January 2020)

I am writing in response to South Cambridgeshire District Councils' ("SCDC") consultation on its 'Hackney Carriage & Private Hire Licensing Policy' (January 2020).

The Licensed Private Hire Car Association ("LPHCA"), are national private hire trade representatives, who submit this response in support of affected members in the district. This includes the South Cambridgeshire Executive Operators Group ("SCEOG").

We wish, in conjunction with our original consultation response of 16th September 2019, to raise a number of supplemental points. These, in respect of key specific policy proposals, are as follows:

1. **External Signage & Livery / Advertisements** (Proposals 3.6 / 3.20)

The LPHCA maintains its **opposition** to the over-regulation of licensing authority, and private hire operator, signage, liveries or advertisements on or within private hire vehicles. In substantiating this position, the LPHCA offers the below comments:

- (a) **The proposals fail to broadly establish such licence conditions are "reasonably necessary"** (within the meaning of *section 48(2) Local Government (Miscellaneous Provisions) Act 1976*).
- (b) **The proposals fail to broadly account for the right to privacy of potential public personalities, and vulnerable passengers, who may request, or require, a higher level of discretion** (within the meaning of *Schedule 1, Article 8, Human Rights Act 1998*).
- (c) **The proposals do not appear to have considered specific Competition & Markets Authority ("CMA") concern on licence conditions which, as at Proposal 3.6(l), make it difficult for private hire drivers to work for multiple private hire operators** (as found at *"Examples of Conditions That May Harm The Interest of Passengers", Regulation of Taxis & Private Hire Vehicles: Understanding the Impact on Competition*, CMA, April 2017).
- (d) **The proposals do not appear to have considered specific CMA concern on licence conditions which, as at Proposal 3.20[?], prohibit advertisements thereby limiting the ability to compete** (as found at *"Examples of Conditions That May Harm The Interest of Passengers", Regulation of Taxis & Private Hire Vehicles: Understanding the Impact on Competition*, CMA, April 2017).
- (e) **The proposals do not broadly appear to have been subject to a Competition Impact Assessment** (as recommended in *'Regulation of Taxis & Private Hire Vehicles: Understanding the Impact on Competition'*, CMA, April 2017).
- (f) **The proposals reference, and place reliance upon, the 'Hackney Carriage & Private Hire Handbook' which is a policy document not open to public consultation, scrutiny or challenge** (as found, for example, at Proposal 3.6(l)).

We accept the statutory discretion licensing authorities possess (pursuant to *section 48(2) Local Government (Miscellaneous Provisions) Act 1976*). **We however, recommend additional clarification be given on the prescription or restriction of signage, liveries or advertisements and seek further stakeholder discussions with SCDC, prior to any ratification, on the trade impacts of this matter.**

2. **CCTV** (Proposal 3.10)

The LPHCA maintains its **opposition** to CCTV being a *mandatory* requirement for private hire vehicles. In substantiating this position, the LPHCA offers the below comments:

- (a) **The proposals fail to broadly establish it is “reasonably necessary”** (within the meaning of *section 48(2) Local Government (Miscellaneous Provisions) Act 1976*).
- (b) **The proposals exceed, at Proposal 3.10(c) the Department for Transport (“DfT”) advice to merely “...look sympathetically on...or...encourage...”** (at para. 35, *Taxi & Private Hire Vehicle Licensing: Best Practice Guidance, DfT, 2010*).
- (c) **The proposals do not broadly appear to have been considered by the Information Commissioners Office (“ICO”) (and / or Surveillance Camera Commissioner (“SCC”))** (pursuant to, amongst others, *Southampton City Council v The Information Commissioner EA/2012/0171*).
- (d) **The proposals do not broadly appear to have been subject to a Data Protection Impact Assessment** (pursuant to *section 64 Data Protection Act 2018* and *‘Blog: Continuous CCTV in Taxis – Where Do Councils Stand?’*, ICO, August 2018).
- (e) **The proposals, in light of the above, do not broadly appear to take account of legislative and regulatory requirements** (pursuant to the *General Data Protection Regulation EU 2016/679, Data Protection Act 2018, Protection of Freedoms Act 2012, Human Rights Act 1998, ‘Surveillance Camera Code of Practice’, Home Office, 2013* and *‘In the Picture: A Data Protection Code of Practice for Surveillance Cameras & Personal Information’, ICO, 2017*).
- (f) **The proposals do not broadly appear to have considered CMA guidance on licensing conditions which “...may restrict or distort competition, potentially resulting in...higher fares or...lower quality of service...”** (as recommended in *‘Guidance on the Impact of Taxi & Private Hire Licensing on Competition & Consumer Welfare’, CMA, June 2017*).
- (g) **The proposals do not broadly appear to have been subject to a Competition Impact Assessment (“CIA”)** (as recommended in *‘Regulation of Taxis & Private Hire Vehicles: Understanding the Impact on Competition’, CMA, April 2017*).
- (h) **The proposals seek to address an unresolved issue for national legislative or regulatory reform** (previous conflicting recommendations have been made by the *Task & Finish Group on Taxi & Private Hire Vehicle Licensing* in 2018 and the *Law Commission* in 2014. Richard Fuller MP also notably introduced, without success, the *Hackney Carriages & Private Hire Vehicles (Closed Circuit Television) Bill* in 2013).
- (i) **The proposals reference, and place reliance upon, the ‘Hackney Carriage & Private Hire Handbook’ which is a policy document not open to public consultation, scrutiny or challenge** (as found, for example, at Proposal 3.10(c)).

The incorporation of a CCTV licence condition remains, in the absence of Parliamentary or Governmental reforms, a difficult and controversial matter. **We would, accordingly, urge caution before SCDC strictly mandates this requirement and, in the alternative, submit the use of CCTV should be a subjective decision for each private hire vehicle owner or driver.**

3. **Exemptions** (Proposals 3.17-3.20)

The LPHCA maintains **concern** on the application and administration of the exemptions for private hire vehicles. In substantiating this position, the LPHCA offers the below comments:

- (a) **The proposals appear to create, at Proposals 3.19(a) and 3.19(j), a conflict with statute by imposing a “sole use” restriction which could limit use of a private hire vehicle under the superseding 24-hour contract exemption** (pursuant to *section 75(1)(d) Local Government (Miscellaneous Provisions) Act 1976*).
- (b) **The proposals do not broadly appear to have considered general CMA guidance on licensing conditions which “...may restrict or distort competition, potentially resulting in...higher fares or...lower quality of service...”** (as recommended in *‘Guidance on the Impact of Taxi & Private Hire Licensing on Competition & Consumer Welfare’, CMA, June 2017*).

- (c) **The proposals do not appear to have considered specific CMA concern on licence conditions which, as at Proposal 3.19(a), over-regulate on the minimum number of days for advance bookings** (as found at “*Examples of Conditions That May Harm The Interest of Passengers’, Regulation of Taxis & Private Hire Vehicles: Understanding the Impact on Competition’*, CMA, April 2017).
- (d) **The proposals do not appear to have been subject to a Competition Impact Assessment** (as recommended in ‘*Regulation of Taxis & Private Hire Vehicles: Understanding the Impact on Competition’*, CMA, April 2017).
- (e) **The proposals reference, and place reliance upon, the ‘Hackney Carriage & Private Hire Handbook’ which is a policy document not open to public consultation, scrutiny or challenge** (as found, for example, at Proposals 3.18(q) and 3.20(d)).

We accept the attribution of such exemptions, with the exception of *section 75(1)(d) Local Government (Miscellaneous Provisions) Act 1976*, is a discretionary matter for licensing authorities (pursuant to *section 75(3) Local Government (Miscellaneous Provisions) Act 1976*). **We, accordingly, recommend additional clarification be given on the administration of these exemptions and seek further stakeholder discussions, prior to any ratification, with SCDC on this matter.**

In addition to the above comments, and if not already done so, I would politely ask the LPHCA correspondence to SCDC of 26th November 2019 and 4th January 2020 be entered alongside this response. The latter being a request for **extension to the consultation period based on SCDC failures to comply with the Cabinet Office ‘Consultation Principles 2018’.**

We wholly appreciate the very difficult balance local authorities must strike between duties to **prevent crime or disorder** and **promote economic, social and environmental well-being** of its area. The LPHCA supports these endeavours and is likewise committed to the overriding consideration of ensuring **public safety**.

I wish to, once again, sincerely thank SCDC for its helpful assistance throughout both consultations and welcome continued dialogue in the future.

Yours sincerely,

Steve Wright MBE LPHCA