

LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

CHAPTER 13 - OVERVIEW OF PROVISIONAL REFORM PROPOSALS

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept prebooked

fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. (Page 160)

This authority would consider itself to be biased in respect of this question as over 95% of its licensed vehicles are Private Hire only. However we would question the need for a 2 tier system which restricts the operation of a certain group and would ask the commission to consider “what the customer wants”, which, we would respectfully suggest is the ability to book or hail a safe vehicle at an affordable cost. Surely it should be the discretion of the person running his or her business to decide whether they concentrate on one style of work or another or indeed both.

CHAPTER 14 – REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

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

It would be unfair of this authority to dictate what another area such as London should do, however we would expect that the Commission should see a clear evidenced base argument indicating why or why not they should be treated differently from the rest of the UK

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)

provided that Public safety continues to be the overriding consideration for licensing any vehicle then particular types should not be excluded, each vehicle should be considered on its individual merits

Question 4

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

We assume this refers to “pedicab” type vehicles, again we would ask that each type of vehicle is considered on its own merits and possibly the nature of the area that it intends to operate

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)

Agreed

Provisional proposal 6

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

Many companies would like the opportunity to better utilise their vehicles, particularly where 7 or 8 seat MPV's are concerned. We see no reason why separate customers should not share a vehicle at separate fares provided that all parties are in agreement prior to the commencement of the journey.

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)

Agreed, in addition the Commission may also seek to set a standard for Stretch Limos carrying less than 9 passengers that can apply to all Local Authorities to promote consistency

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)

FOR SPECIFIC DEBATE WITH LC should volunteers still be registered in some capacity i.e crb & medical ??

Question 9

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

- (a) carpooling; and
- (b) members clubs? (Page 170)

Provided such schemes are run as a club where all members agree to the terms and conditions then the issue of safety is taken on by the members, however guidance by the secretary of state on how such schemes can be run legally would be beneficial, this could be done in a similar manner to the matters that the Gambling issues guidance on. The law Commission may wish to look at some form of registration with a Local Authority so that they can be audited for compliance

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)

Agreed

Provisional proposal 11

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

Why ? what evidence is there to indicate that the public are at specific risk? The area for clarification is to what extent should "used in relation to a wedding" be stretched. Does taking everyone to the airport 2 days after a wedding count as exempt??

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)

We do not believe that reintroduction of the contract exemption would be a positive step, it would re introduce a degree of confusion that could be exploited by less scrupulous businesses.

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}*

If a provision for hire is undertaken, where it is undertaken should not be relevant, it is the act of making a booking that should dictate what licenses are required.

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)*

This authority has no airports so do not offer an answer, other than to ask the commission to consider what the customer would want and balance this against the public safety requirement

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)*

Agreed, plying for hire, ranking and hailing should be given its simplest and commonly understood interpretation.

Provisional proposal 16

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

Agreed, it will be self-limiting to dictate the terms these terms as technology moves fast and any such clarification will be out of date quickly.

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 trade, regulators and courts have an understanding of what is "plying for hire" it would seem illogical to change this unless clear evidence can be shown that the Scottish definition works better, particularly in cases where enforcement issues are raised.

Provisional proposal 18

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

Agreed, if hackneys have the permission to refuse fares they will effectively pick and choose jobs at busier periods

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)

agreed – if the commission believes that a 2 tier system should remain.

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)

Agreed

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)

Agreed and encouraged

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned. (Page 185)

Agreed, the term Hackney Carriage is out of date

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 “prebooked” and did not otherwise lead to customer confusion? (Page 186)

The term “taxi” has a preconceived vision for most people, however a “cab” is often used in a more generic term LC TO DISCUSS

CHAPTER 15 – A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

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

Agreed

Provisional proposal 25

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

This authority generally agrees, however the minimum standard should not be set so low as to have no real effect.

Provisional proposal 26

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

Agreed

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)

Why? The public rarely differentiate between the two and should be entitled to the same standards whichever service they choose to use

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)

There should be a national set standard (see answer to Q25)

Question 29

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

The inflexibility of the trade. This question will have different obstacles depending on where the standard is set, however provided the overriding objective of public safety is upheld then everyone should follow, possibly with a transition period.

Question 30

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

Why ?? The public deserve safe and competent drivers whatever vehicle they choose to utilise.

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)

This authority would be willing to consider any options that create consistency on a national basis so would prefer to see more detailed proposals on this matter before giving a definitive view

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)

Agreed

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)

A cross party group of trade/regulators/users and technical persons should be consulted with.

Provisional proposal 34

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

provided the “national minimum” is high enough, this should not be needed. Unfortunately local authorities are scattered with conditions imposed on spurious grounds to further a particular agenda, using safety as an excuse.

Question 35

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

Yes

Question 36

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

yes provided they are reasonable and proportionate

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)

Authorities should have clear statutory backing to cooperate but the workings should be left to local arrangements.

Provisional proposal 38

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

Agreed

Provisional proposal 39

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

Agreed – but not relevant to South Cambridgeshire

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)

We would question the merit of this as it will inevitably lead to more enforcement issues and misuse by the trade

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)

In principle this is logical, it seems absurd that a driver in one authority needs to duplicate the process, i.e CRb, Medical, DVLA checks etc to obtain a badge to work in a neighbouring authority. If a national standard for drivers/vehicles is met then they should be permitted to work anywhere, possible a nominal registration fee and acceptance of an authorities general conditions should be completed that then permits that authority to enforce there conditions if required, even though a driver or vehicle is not registered with them.

Provisional proposal 42

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

Agreed, this would cause confusion and apart from anything else significantly increase the trades carbon footprint.

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.

This authority would ask the commission to consider a band of fares to be set nationally, that authorities can work to given the local differences. However we do feel that any fares set should be a maximum.

We can present no evidence that by not regulating private hire fares this has caused problems. However again we ask the commission to consider “what would the customer want ?

Question 44

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

NO, The public need to have a fixed point to refer to, and in most cases this is the metered fare

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)

Given the ever changing fields of law and case law and the public perception over time of what is considered appropriate. i.e quite possibly 25 yrs ago an applicant with a drink drive conviction may have been treated differently than today, We would question whether primary legislation is the right direction to go as it can take considerable time to update and reflect the changing views within society and the courts.

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)

Agreed, it is outdated and easy for owners to get around this requirement, it creates unnecessary burdens for local authorities

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)

For similar reasons to those outlined in Q47 we would prefer it to be within SoS powers.

Provisional proposal 48

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

Agreed, It is essential that a licensing authority works closely with operators, particularly in respect of complaints.

Question 49

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

Any business that is involved in taking bookings or fulfilling bookings in any way should be regulated.

Provisional proposal 50

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

No – The operator should be clearly defined, The company that takes the booking from the customer should be the responsible party.

Question 51

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

This is a good idea on paper but in practice, unless, the definition of fit and proper is applied to any person, then it is easy to use a front person to be the licensee.

Provisional proposal 52

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

Provided it is clear where the responsibility for completion of the contract lies

Question 53

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

Yes – and an operators licence should be in place

CHAPTER 17 – REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers.

Agreed

Question 55

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

The trade would be subject to Market forces in the same way as any other business.

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?

Yes this would seem reasonable, plates often change hands for figures in excess of £40,000 therefore any change should take into account this potential loss.

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.

Taxis and private hire were excluded from the Transport Act 1980 which placed various duties on business in respect of disability issues, this is an area that can be looked at again as it is far wider than what provisions authorities or individuals should adopt.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards?

yes, but how would this be subsidised, if at all.

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers?

If a 2 tier system is to be retained, all vehicles working from a rank must be wheelchair accessible

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles.

This is reasonable as each area has different requirements

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should

include recognised disability awareness training.

Agreed

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.

Agreed

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?

Failure to stop should be an offence, test purchases should be undertaken by authorities

CHAPTER 19 – REFORMING ENFORCEMENT

Question 64

Should authorised licensing officers have the power to stop licensed vehicles?

Yes

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”.

The level of fine should be raised as a deterrent, touting for hire often invalidates insurance which currently carries a 6 point fine by DVLA, this should be a disqualification offence for professional drivers.

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules?

yes but only with authorisation of a senior officer or Police officer

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how?

Yes- smaller offences such as not displaying badges, or, not meeting licensing conditions should carry a fixed penalty

Provisional proposal 68

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

Yes – if a national set of standards are introduced then this will become a practical possibility

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?

yes, however a scheme similar to that of "primary Authority" as adopted in food regulation may be appropriate – See BDRO for further details

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.

Agreed – but isn't this the case now??

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.

Agreed

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court.

Agreed – as an alternative to a Local Authority panel

Question 73

Should there be an onward right of appeal to the Crown Court?

yes