

Report of the Chief Executive

GOVERNMENT RESPONSE TO THE REPORT OF THE TASK AND FINISH GROUP ON TAXI AND PRIVATE HIRE VEHICLE LICENSING1. Purpose of report

To advise the Committee of the Government's response to the report of the Task and Finish Group on Taxi and Private Hire Vehicle (PHV) Licensing released on 12 February 2019.

2. Background

The Government established a Task and Finish Group (TFG) on Taxi and Private Hire Vehicle Licensing in September 2017. The group had a wide remit to look at current taxi and PHV legislation and licensing authority powers and to make recommendations to address any issues identified.

The TFG submitted its report and recommendations to Government on 9 July 2018. The Government published its response on 12 February 2019.

3. Content

The TFG comprised a number of interested bodies and persons related to the Taxi and PHV trades and a number of other bodies and persons were interviewed by them. There was no public consultation. However, the Local Government Association represented the interests of licensing authorities.

The TFG recommendations and a précis of the Government responses are listed in the appendix.

The document can be accessed at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/775983/taxi-task-and-finish-gov-reponse.pdf

4. Financial Implications

There are no financial implications in this noting report.

Recommendation

The Committee is asked to NOTE the report

Background papers

Nil

APPENDIX

Recommendations of the Task and Finish Group and Government Responses

Recommendation 1

Notwithstanding the specific recommendations made below, taxi and PHV legislation should be urgently revised to provide a safe, clear and up to date structure that can effectively regulate the two-tier trade as it is now.

Government response

We will set out in this response what legislation the Government proposes to take forward. In the short term this does not include a full replacement of the law which regulates taxi and private hire.

Recommendation 2

Government should legislate for national minimum standards for taxi and PHV licensing - for drivers, vehicles and operators (see recommendation 6). The national minimum standards that relate to the personal safety of passengers must be set at a level to ensure a high minimum safety standard across every authority in England.

Government must convene a panel of regulators, passenger safety groups and operator representatives to determine the national minimum safety standards. Licensing authorities should, however, be able to set additional higher standards in safety and all other aspects depending on the requirements of the local areas if they wish to do so.

Government response

The Government agrees that there should be national minimum standards for taxi and PHV licensing, and will take forward legislation when time allows to enable these.

Recommendation 3

Government should urgently update its Best Practice Guidance. To achieve greater consistency in advance of national minimum standards, licensing authorities should only deviate from the recommendations in exceptional circumstances. In this event licensing authorities should publish the rationale for this decision. Where aspects of licensing are not covered by guidance nor national minimum standards, or where there is a desire to go above and beyond the national minimum standard, licensing authorities should aspire to collaborate with adjoining areas to reduce variations in driver, vehicle and operator requirements. Such action is particularly, but not exclusively, important within city regions.

Government response

The Department is for the first time consulting on statutory guidance to be issued to licensing authorities which details the Department's view of how their functions may be exercised so as to protect children and vulnerable adults from harm. Licensing authorities are obligated to have regard to this guidance

Recommendation 4

In the short-term, large urban areas, notably those that have metro mayors, should emulate the model of licensing which currently exists in London and be combined into one licensing area. In non-metropolitan areas collaboration and joint working between smaller authorities should become the norm. Government having encouraged such joint

working to build capacity and effectiveness, working with the Local Government Association, should review progress in non-metropolitan areas over the next three years.

Government Response

The Government agrees that collaboration and joint working can be helpful in ensuring efficient operation of taxi and PHV licensing in smaller local authorities. The Government will keep progress in this area under review.

Recommendation 5

As the law stands, 'plying for hire' is difficult to prove and requires significant enforcement resources. Technological advancement has blurred the distinction between the two trades. Government should introduce a statutory definition of both 'plying for hire' and 'pre-booked' in order to maintain the two-tier system. This definition should include reviewing the use of technology and vehicle 'clustering' as well as ensuring taxis retain the sole right to be hailed on streets or at ranks. Government should convene a panel of regulatory experts to explore and draft the definition.

Government response

Government does not intend to take this recommendation forward at this time.

Recommendation 6

Government should require companies that act as intermediaries between passengers and taxi drivers to meet the same licensing requirements and obligations as PHV operators, as this may provide additional safety for passengers (e.g. though greater traceability).

Government response

Government is not convinced that there is a compelling case for the licensing of taxi intermediaries

Recommendation 7

Central Government and licensing authorities should 'level the playing field' by mitigating additional costs faced by the trade where a wider social benefit is provided – for example, where a wheelchair accessible and/or zero emission capable vehicle is made available.

Government response

The Government does not propose to introduce further financial incentives for taxis and PHVs based on vehicle type at the current time, however, we will keep this under review.

Recommendation 8

Government should legislate to allow local licensing authorities, where a need is proven through a public interest test, to set a cap on the number of taxi and private hire vehicles they license. This can help authorities to solve challenges around congestion, air quality and parking and ensure appropriate provision of taxi and private hire services for passengers, while maintaining drivers' working conditions.

Government response

The Government does not propose to take this recommendation forward. We would instead wish to see local authorities make the most use of existing powers to address air quality and congestion issues.

Recommendation 9

All licensing authorities should use their existing powers to make it a condition of licensing that drivers cooperate with requests from authorised compliance officers in other areas. Where a driver fails to comply with this requirement enforcement action should be taken as if the driver has failed to comply with the same request from an officer of the issuing authority

Government response

The Government welcomes this recommendation.

Recommendation 10

Legislation should be brought forward to enable licensing authorities to carry out enforcement and compliance checks and take appropriate action against any taxi or PHV in their area that is in breach of national minimum standards (recommendation 2) or the requirement that all taxi and PHV journeys should start and/or end within the area that issued the relevant licences (recommendation 11).

Government response

The Government will work closely with licensing authorities and enforcement officers to ensure that the precise scope of national enforcement powers, and how they would be used in practice, are carefully considered and defined.

Recommendation 11

Government should legislate that all taxi and PHV journeys should start and/or end within the area for which the driver, vehicle and operator (PHVs and taxis – see recommendation 6) are licensed. Appropriate measures should be in place to allow specialist services such as chauffeur and disability transport services to continue to operate cross border.

Operators should not be restricted from applying for and holding licences with multiple authorities, subject to them meeting both national standards and any additional requirements imposed by the relevant licensing authority.

Government response

Government agrees with the principle of this recommendation, and will consider further (with a view to legislation) how it might best work in detail.

Recommendation 12

Licensing authorities should ensure that their licensing administration and enforcement functions are adequately resourced, setting fees at an appropriate level to enable this.

Government response

We urge licensing authorities to ensure that they have efficient and effective procedures in place to minimise the cost to the trade of establishing a robust and well-resourced licensing body and undertake a review of their licensing fees to recover the permissible costs and no more of providing this.

Recommendation 13

Legislation should be introduced by the Government as a matter of urgency to enable Transport for London to regulate the operation of pedicabs in London

Government response

The Government fully supports this recommendation.

Recommendation 14

The Department for Transport and Transport for London should work together to enable the issue of Fixed Penalty Notices (FPNs) for both minor taxi and PHV compliance failings. The Department for Transport should introduce legislation to provide all licensing authorities with the same powers.

Government response

Government will engage with licensing authorities to establish if there is significant demand for a power to issue fixed penalty notices outside of London to assist in the enforcement of national minimum standards.

Recommendation 15

All ridesharing service services should explicitly gain the informed consent of passengers at the time of the booking and commencement of the journey.

Government response

Licensing authorities may wish to ensure that their operator licensing conditions make clear that operators must do this.

Recommendation 16

The Department for Transport must as a matter of urgency press ahead with consultation on a draft of its Statutory Guidance to local licensing authorities. The guidance must be explicit in its expectations of what licensing authorities should be doing to safeguard vulnerable passengers. The effectiveness of the guidance must be monitored in advance of legislation on national minimum standards.

Government response

The consultation on the Statutory Guidance commenced on 12 February 2019

Recommendation 17

In the interests of passenger safety, particularly in the light of events in towns and cities like Rochdale, Oxford, Newcastle and Rotherham, all licensed vehicles must be fitted with CCTV (visual and audio) subject to strict data protection measures. Licensing authorities must use their existing power to mandate this ahead of the requirement's inclusion in national minimum standards.

To support greater consistency in licensing, potentially reduce costs and assist greater out of area compliance, the Government must set out in guidance the standards and specifications of CCTV systems for use in taxis and PHVs. These must then be introduced on a mandatory basis as part of national minimum standards

Government response

The Government's view on the use of CCTV in taxis and private hire vehicles is set out in the consultation on draft statutory guidance

Recommendation 18

As Government and local authorities would benefit from a reduction in crime in licensed vehicles both should consider ways in which the costs to small businesses of installing CCTV can be mitigated.

Government response

The cost of installing a CCTV system is similar to a replacement set of tyres for a vehicle; as such we do not consider subsidising of these additional costs is necessary.

Recommendation 19

National standards must set requirements to assist the public in distinguishing between taxis, PHVs and unlicensed vehicles. These should require drivers to have on display (e.g. a clearly visible badge or arm-band providing) relevant details to assist the passengers in identifying that they are appropriately licensed e.g. photograph of the driver and licence type i.e. immediate hire or pre-booked only.

All PHVs must be required to provide information to passengers including driver photo ID and the vehicle licence number, in advance of a journey. This would enable all passengers to share information with others in advance of their journey. For passengers who cannot receive the relevant information via digital means this information should be available through other means before passengers get into the vehicle.

Government response

The Government will consider what vehicle and driver identification requirements should be included within national minimum requirements, focussing on supporting safety.

Recommendation 20

All drivers must be subject to enhanced DBS and barred lists checks. Licensing authorities should use their existing power to mandate this ahead of inclusion as part of national minimum standards.

All licensing authorities must require drivers to subscribe to the DBS update service and DBS checks should must be carried out at a minimum of every six months. Licensing authorities must use their existing power to mandate this ahead of inclusion as part of national standards.

Government response

The Government agrees with both parts of this recommendation, and they are included in the statutory guidance which has been issued for consultation

Recommendation 21

Government must issue guidance, as a matter of urgency, that clearly specifies convictions that it considers should be grounds for refusal or revocation of driver licences and the period for which these exclusions should apply. Licensing authorities must align their existing policies to this ahead of inclusion in national minimum standards.

Government response

The Government agrees with this recommendation, and its view has been included in the statutory guidance which has been issued for consultation

Recommendation 22

The Quality Assurance Framework and Common Law Police Disclosure Provisions must be reviewed to ensure as much relevant information of behaviours as well as crimes by taxi and PHV drivers (and applicants) is disclosed to and to ensure licensing authorities are informed immediately of any relevant incidents.

Government response

Government will discuss the provision of information with the NPCC with a view to ensuring that appropriate steps are being taken to provide relevant information to licensing authorities.

Recommendation 23

All licensing authorities must use the National Anti-Fraud Network (NAFN) register of drivers who have been refused or had revoked taxi or PHV driver licence. All refusals and revocations must be recorded, and the register checked for all licence applications and renewals. Licensing authorities must retain the reasons for any refusal, suspension or revocation and provide those to other authorities as appropriate. The Government must, as a matter of urgency, bring forward legislation to mandate this alongside a national licensing database (recommendation 24).

Government response

Government intends that information about drivers who have had licences refused or revoked would be one part of the wider-ranging national database discussed against the next recommendation (24).

Recommendation 24

Government must establish a mandatory national database of all licensed taxi and PHV drivers, vehicles and operators, to support stronger enforcement.

Government response

Government will legislate for the creation of a national taxi and private hire database, as a necessary accompaniment to national enforcement powers.

Recommendation 25

Licensing authorities must use their existing powers to require all drivers to undertake safeguarding / child sexual abuse and exploitation awareness training including the positive role that taxi/PHV drivers can play in spotting and reporting signs of abuse and neglect of vulnerable passengers. This requirement must form part of future national minimum standards.

Government response

Government intends that this requirement would be included in national minimum standards.

Recommendation 26

All individuals involved in the licensing decision making process (officials and councillors) must have to undertake appropriate training. The content of the training must form part of national minimum standards.

Government response

Government intends that the requirement for training would be included in national minimum standards.

Recommendation 27

Government must review the assessment process of passenger carrying vehicle (PCV) licensed drivers and/or consider the appropriate licensing boundary between taxis/PHVs and public service vehicles (PSVs).

Government response

Licensing authorities should use their existing powers to include as a condition of a PHV operator's licence that bookings received by that licence-holder must be fulfilled using a PHV licensed driver and vehicle.

Government supports this recommendation.

Recommendation 28

Licensing authorities must require that all drivers are able to communicate in English orally and in writing to a standard that is required to fulfil their duties, including in emergency and other challenging situations.

Government response

Government intends that these training requirements will be included in national minimum standards.

Recommendation 29

All licensing authorities should use their existing powers to require that their taxi and PHV drivers undergo disability awareness and equality training. This should ultimately be mandated as part of national minimum standards.

Government response

Government will continue to monitor the proportion of Wheelchair Accessible Vehicles (WAVs) within overall taxi and PHV fleets, as reported in the annual DfT taxi and PHV statistics, and to seek clarification from authorities as to the steps they are taking to assess and respond to the local need for such vehicles.

Recommendation 30

Licensing authorities that have low levels of WAVs in their taxi and PHV fleet should ascertain if there is unmet demand for these vehicles. In areas with unmet demand licensing authorities should consider how existing powers could be used to address this, including making it mandatory to have a minimum number of their fleet that are WAVs. As a matter of urgency the Government's Best Practice Guidance should be revised to make appropriate recommendations to support this objective

Government response

Government will continue to monitor the proportion of WAVs within overall taxi and PHV fleets, as reported in the annual DfT taxi and PHV statistics, and to seek clarification from authorities as to the steps they are taking to assess and respond to the local need for such vehicles.

Recommendation 31

Licensing authorities which have not already done so should set up lists of Wheelchair Accessible Vehicles (WAVs) in compliance with s.167 of the Equality Act 2010, to ensure that passengers receive the protections which this provides.

Government response

Government strongly encouraged licensing authorities to publish lists under section 167 of the Equality Act 2010 to ensure that wheelchair users are protected from discriminatory behaviour.

Recommendation 32

Licensing authorities should use their existing enforcement powers to take strong action where disability access refusals are reported, to deter future cases. They should also ensure their systems and processes make it as easy as possible for passengers to report disability access refusals.

Government response

Licensing authorities should use the powers available to them, and take robust action against those who have discriminated illegally against disabled passengers.

Recommendation 33

The low pay and exploitation of some, but not all, drivers is a source of concern. Licensing authorities should take into account any evidence of a person or business flouting employment law, and with it the integrity of the National Living Wage, as part of their test of whether that person or business is "fit and proper" to be a PHV operator.

Government response

Government will legislate to improve the clarity of the employment status tests, reflecting the reality of modern working relationships.

Recommendation 34

Government should urgently review the evidence and case for restricting the number of hours that taxi and PHV drivers can drive, on the same safety grounds that restrict hours for bus and lorry driver.

Government response

Government will engage informally with sector stakeholders to determine whether it is possible to more accurately assess the hours drivers are working, and whether there is a trend for working more or excessive hours. The Government is mindful not just of road safety, but also of the need to avoid burdensome, yet difficult to enforce, regulation.