

Call for Evidence

This response has been submitted on behalf of Newcastle-under-Lyme Borough Council in its capacity as a licensing authority administering the taxi licensing regime. Licensing authorities are a primary stakeholder and as such any reform will impact hugely on how the service is administered, resourced and provided.

a. Do current licensing arrangements and tools enable local authorities to effectively regulate and oversee the taxi and private hire vehicle (PHV) sector across England, in terms of safety, accessibility and quality of service? If not, what improvements could be made?

No, they don't. The Town and Police Clauses Act 1847 (1847 Act) for Hackney Carriages and the Local Government (Miscellaneous Provisions) Act 1976 (1976 Act) for the Hackney Carriage and Private Hire sector are woefully outdated. Whilst there has been legislation brought in more recently that has assisted in safeguarding the public, Statutory Standards and updated Best Practice Guidance, they are piecemeal and do not address the sectors as a whole leaving licensing authorities to implement as they see fit. There is then a plethora of case law supplementing the legislation and guidance which adds to the complexity of administering the regime in a consistent and robust way.

As of April 2024, there were circa 260-270 different licensing authorities (LAs) in England dealing with the regime. Each LA must have a comprehensive and cohesive taxi licensing policy (as per Statutory Standards). Whilst there is scope for LAs to work collaboratively and agree policies across neighbouring/geographical areas it is not common, there is no requirement to do so and as such means that there are many different policies in place due to varying interpretations of the Acts, guidance and case law.

The 1847 and 1976 Acts are outdated and do not take account of mobile telephones, internet and email bookings, app-based providers or any other technological advances in the last 50 years.

The Deregulation Act 2015 provided that private hire operators (PHOs) could sub-contract bookings to PHOs who were licensed in any other LA area. This has led to PHOs applying for and being granted PHO licences across multiple LA areas and then operate vehicles and drivers licensed by any of those LAs as part of one large business operation. This was a benefit to larger PHOs and is a contributory factor in the proliferation of 'licence shopping' in the private hire sector.

Quite simply, there needs to be a national consistency that all drivers, vehicle and PHOs must meet before a licence will be issued. The Council's position is that for worthwhile reform to take place there must be new primary legislation introduced accompanied by national standards (not minimum standards). This should include but not be limited to ensuring provision of wheelchair accessible vehicles, that all licensed vehicles should require a higher-level mechanical safety test than an MOT (or at least more frequent tests), suitability standards for drivers, vehicle proprietors and PHOs, and driver 'fit and proper' criteria.

The Government should revisit the draft bill and recommendations made by the Law Commission in 2014, and the Task and Finish Group report recommendations from 2018, as many of the concerns that are being raised now have already been considered and addressed previously. A significant period has passed and only a minority of the recommendations have been acted on. They should also keep in view the progress being made by Wales in creating new legislation and standards under their devolved powers.

b. What is the impact on the travelling public and drivers of variation between licensing authorities? Is reform needed to bring greater standardisation?

The travelling public for the most part do not understand the difference between Hackney Carriages and Private Hire. It is impossible that the requirement for private hire vehicles (PHVs) to not resemble Hackney Carriage Vehicles (HCVs) to be met when vehicle criteria differs so vastly so there is no wonder that this is the case.

Many LAs have a colour scheme for their HCVs to make them stand out. In Newcastle-under-Lyme our HCVs must be black, and have a white stripe affixed. A neighbouring authority has a criterion where all HCVs are black. We then have policies that preclude PHVs from being black. However, other LAs, including City of Wolverhampton and Ashfield District Councils (who are two of the largest LAs in terms of licensing PHVs and their drivers working in the Newcastle-under-Lyme and Stoke-on-Trent geographical area) allow black PHVs. It is well documented about how many private hire drivers (PHDs) and PHVs Wolverhampton licence that do not live or work in that area, although they are not the only LA doing this.

Drivers can be refused a licence, or have one suspended or revoked, by one LA for reasons that almost always relate to public safety and/or safeguarding but then apply to another LA, sometimes tens or hundreds of miles away from where they live and work and be granted a licence due to lower standards. They then work in the area they have had action taken against them. This is a huge public safety risk and reduces public confidence in the whole system, and if 'cross-bordering' is to be retained then the criteria for driver suitability must be consistent across the whole of England. It may be considered beneficial for cross-bordering to be addressed and limit where a driver licensed by an LA can work, by geo-fencing, the so-called A-B-B-A method (the driver and vehicle must be licensed in either the LA in which the journey begins or ends) or similar.

c. What would be the practical implications for licensing authorities and operators of more stringent or standardised licensing conditions in respect of safety, accessibility, vehicles and driver conduct?

It would depend on the level of the 'more stringent or standardised conditions' as to what the impact may be. Making standards very high would have the positive effect of ensuring that only the highest calibre driver, HCV, PHV and PHOs gets licensed and promote public confidence is using the taxi trade. It would also mean that there would be less reason for applicants to licence shop if all LAs were working to the same standard. There is a caveat that the current disparity on licence fees would need to be addressed, and LAs would need sufficient resources to administer all applications in a timely fashion.

It would have the negative effect that there will be a proportion of the trade who may not meet the highest standard and a reduction of licences would lead to a shortfall of accessible transport for vulnerable persons, those in areas with no/limited public transport etc.

Driver conduct would likely only improve if LAs have the power to bring about swifter action and have the resources to manage this. Anecdotally the Council are aware that some LAs are not able to act on all issues raised to them, due to time and resource constraints which fosters complacency by licence holders. It should be noted that the majority of the trade are hardworking and decent people, who are professional and compliant, and it is those who are not that are the most resource intensive.

d. What steps should the Government take to address the challenges posed by cross-border licensing in the taxi and PHV sector?

Cross-bordering is not the biggest challenge, it is the circumstances that have led to its proliferation that is the problem. Specifically, it is the ability for applicants to choose where to get licensed on the basis of lower standards and then work in a completely different area, and LAs choosing to licence PHOs who do not have a physical presence in their area, do not operate in the area and operate entirely from the base in their 'home' LA.

If all LAs were consistent in the use of their decision-making powers, and all applicants met the same standards irrespective of where they are licensed, then subject to resourcing and parity of fees, and the ability of LA officers to enforce against licensees from other LAs it should not matter which LA they are licensed with. That said, if the Government are committed to stopping or limiting cross-bordering then it could regulated using a method described previously.

e. What would effective reform look like in terms of enforcement, passenger safety and safeguarding, and regulatory consistency? Is there a role for regional transport authorities?

LA officers need to be able to impose sanctions on licence holders from different authorities. It would be beneficial if sanctions included Fixed Penalty Notices (FPNs) for licensing offences such as failing to wear the driver badge, and/or the facility for LA officers to issue FPNs for prescribed motoring offences that are identified on inspection e.g. bald tyres, lights not working, seatbelts not functioning. More generally there could be stronger penalties introduced for motoring offences for professional drivers such as HCV and PHV drivers.

Reform needs to future proof the legislation and standards required of applicants and licence holders, as far as practicable. It must be able to address technological advances as they happen, not only in terms of business model but also vehicle technologies.

There is often focus on passenger safety, and not on the safety of the drivers. It is imperative that Government regulate to protect drivers from assaults, aggressive customers and allegations of wrongdoing. A potential method of doing so would be to legislate that all HCVs and PHVs must have approved CCTV fitted which would provide confidence to all parties that any issues will be evidenced in a way to support reporting the matters to the LAs or Police. The Government would need to provide financial assistance to LAs or drivers directly to enable approved CCTV systems to be fitted.

For safeguarding there should be mandatory training carried out by approved providers for all drivers and PHOs that covers relevant subjects such as Child Sexual Exploitation, Modern Day Slavery, County Lines, identifying persons in vulnerable positions and what to do. It should also specifically include applicant/licence holders responsibilities under the Equality Act 2010. This training should be carried out regularly (i.e. prior to every new grant or renewal application) and updated to keep pace with emerging issues relevant to the role of drivers and PHOs in safeguarding themselves and the public.

If the licensing regime were to be administered by regional transport authorities, this would improve consistency of standards and decision making as it would consolidate differences across large areas. However, if the recommendation to implement new legislation and national standards was taken forward then this consistency would already be addressed.

f. How are digital ride-hailing platforms impacting standards in the sector, and is further regulation in this area required?

The Council have not seen any impacts on standards within the sector due to digital ride-hailing platforms. Most PHOs licensed by the Council allow bookings through multiple methods, we only have Uber who solely use a digital platform.

g. How effective, accessible, and trusted are complaints and incident reporting systems in the taxi and private hire vehicle (PHV) sector, for both passengers and drivers?

Every LA will have a method of receiving, recording and actioning complaints and incidents and there will be disparity across England. It is important that these processes remain robust and are resourced effectively to investigate and action as required otherwise they may contribute to complacency in driver conduct as previously mentioned. The Government should regulate and provide a consistent approach to requirements for how LAs and the sector deal with complaints.

Each LA may, via policy requirements, regulate how the trade record and action complaints and incidents received directly. There will likely be inconsistencies on how each PHO deals with complaints and how the LA monitor and review these.

There have been improvements in terms of accessibility via digital methods from both LAs and the trade, but it needs to remain that customers without digital means can continue to make complaints and be kept up to date with the outcome.

As previously mentioned, more needs to be done to support and protect the drivers against allegations, abuse and violence. There needs to be a mechanism accessible to drivers, be it to LAs or the Police, for them to report incidents that are then dealt with robustly.

It should be noted that with the inconsistencies of licensing policies LAs do receive complaints about vehicles and drivers that are working in their areas but licensed elsewhere. This causes a strain on resources and LAs have limited power to take meaningful action.

h. How effective is the National Register for Revocations, Refusals and Suspensions (NR3S). in supporting consistent licensing decisions across local authorities? What barriers, if any, are limiting its use or impact?

The NR3S is an excellent and invaluable tool for obtaining information on applicants and licence holders, which may otherwise not be presented to the LA. Decision making will only be consistent however if every single LA is working to the same suitability guidance and importantly the officers/members/legal advisers must have consistency in their training and understanding on what is relevant for consideration.

Whilst most LAs are using the NR3S there is still a requirement for each LA to pay for membership to National Anti-Fraud Network (NAFN) even if they do not use any of the other NAFN services. LAs have to pay the annual fee when there is a statutory obligation to use the register. It would be beneficial if the Government were to pay the access fee to the NR3S.

i. What are the implications for taxi and PHV licensing of the future rollout of autonomous vehicles?

It is hard to say as it is still at the early stages. It is anticipated that this would affect large urban areas first for short duration journeys across towns and cities before being rolled out more widely.

If, as currently proposed in the Department for Transport (DfT) consultation, that the regulation of the vehicles is not dealt with by LAs then there are questions about who and how they will be regulated. Who will passengers complain to if they experience an issue or the vehicle breaks down? What happens to the passenger if the vehicle breaks down or is involved in an accident? If a passenger requires mobility assistance or has luggage how will that be addressed?

If rolled out widely, and there is no regulation by LAs, then there will be a loss of income and workload to the LAs which may result in job changes or ultimately losses. If drivers are no longer needed, then many people will lose their livelihoods or be forced to move to areas that still require physically driven HCVs and PHVs.

It is unclear whether autonomous vehicles would require pre-booking. Would they be able or be used as an HCV for hailing on the street or at ranks. It is also unclear how they would interact with traditional HCV/PHVs within a town scape. The Council will be considering and responding to the DfT consultation in due course.

Additional comments

LAs that have higher standards have been negatively and unfairly impacted upon by the disparate licensing landscape that is currently in place. Applicants gravitate to the LAs that have lower standards, require less training and/or are cheaper. Many applicants believe that they will be able to obtain a licence more quickly at these LAs when in fact they are being inundated by applications with delays that are weeks and months long to obtain a licence whereas if they were prepared to apply to an LA with higher standards then they may in fact get a licence more quickly.

Improvement is required on information sharing between the Police and the LAs. Any reform needs to consider how this can be addressed and specifically identify, advise and guide the Police on what information can be shared and how. The Common Law Police Disclosure (CLPD) process only works when the Disclosure is actually made to the LA. Cases do need to be looked at on their individual circumstances however the threshold for a CLPD is incredibly high and applied inconsistently across the country. It is the Council's view that the Police are often over-cautious and may lack understanding of the need for LAs to protect the public and what can be considered when making licensing decisions. This hinders LAs from making appropriate and balanced decisions to protect the public.

The DfT statutory standards state that a lack of language proficiency (written and oral) could impact upon a driver's ability to protect children and vulnerable adults from harm and exploitation or identify that exploitation may be taking place. Many drivers now use satellite navigation on journeys although some do not. Sat-Navs occasionally have issues where they have not been updated with new housing estates, roads etc and the driver requires verbal directions. In addition, drivers will often witness incidents, be involved in accidents or be carrying passengers that have an emergency whilst they are in the vehicle (e.g. they feel sick or are experiencing a medical episode). In these examples it is critical that the driver is suitably proficient in written and spoken English to ensure the safety of passengers, other road users and themselves. This is an area that requires careful

consideration as to how this can be achieved in a suitable and consistent way without disadvantaging or creating an inequality with the trade.

Any reform needs to be mindful of the variety of LA areas. What may be suitable for large cities might not be for rural authorities or those that have a mix of urban and rural localities. The balance of national and local requirements will require careful consideration.

The Council fully support this call for evidence and the recommendations of Baroness Casey of Blackstock DBE CB included within the recent National Audit and implore the Government to review and reform taxi licensing to bring about a system that is fit for purpose, can endure technological advancements and protects all of those working in, and those who use, the taxi and private hire sector.

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