

Report of Chief Officer, Elections and Regulatory

Report to Licensing Committee

Date: 6 November 2018

Subject: Department of Transport Task and Finish Group report on taxi and private hire vehicle licensing

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	☐ Yes	☒ No
Are there implications for equality and diversity and cohesion and integration?	☐ Yes	☒ No
Is the decision eligible for Call-In?	☐ Yes	☒ No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	☐ Yes	☒ No

Summary of main issues

- 1 This report updates Licensing Committee on the report produced by the Department of Transport Task and Finish Group.
- 2 The group heard evidence from a wide range of stakeholders in order to make a series of recommendations for maintaining and improving public safety, working environment, and a competitive, dynamic market.
- 3 The report makes 68 wide ranging and long term recommendations, for both central government, and for licensing authorities.

Recommendations

1. That members note the information in this report.
2. That members support the proposed review and alignment of the council's ongoing policy review with these recommendations.

1 Purpose of this report

- 1.1 To inform committee members of the report produced by the Department of Transport Task and Finish Group.
- 1.2 The Task and Finish Group make 34 wide ranging and long term recommendations in their report.

2 Background information

- 2.1 In 2017, the Department for Transport established a Task and Finish Group, with a remit to
- consider evidence relating to the adequacy of current taxi and PHV licensing authority powers, as set out in legislation and guidance, making recommendations for actions to address any priority issues identified. Specifically:
 - identify the current priority concerns regarding the regulation of the sector, based on evidence of impact and scale across England;
 - consider, in particular, the adequacy of measures in the licensing system to address those issues;
 - consider whether it would advise the Government to accept the recommendations made in the Law Commission's May 2014 report on taxi and PHV legislative reform relevant to the issues, and;
 - make specific and prioritised recommendations, legislative and non-legislative, for action to address identified and evidenced issues.
- 2.2 The membership of the group reflects a range of people involved in the trade, in regulation, and representing interested bodies and groups, and is listed on p 14 of the report in **Appendix 1**.
- 2.3 Leeds City Council invited the chair of the group, Prof Mohammed Abdel-Haq, to visit Leeds to see the current challenges and licensing and enforcement responses of local authorities. The chair invited the Taxi and Private Hire Licensing Manager to give evidence to the group in January 2018.

3 Main issues

- 3.1 The group's report is attached at **Appendix 1**. The report makes 34 recommendations, summarised on pp7-12.
- 3.2 The report makes the following recommendations for central government.

No.	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.
2	Government should legislate for national minimum standards for taxi and PHV licensing -for drivers, vehicles and operators. 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.

No.	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.
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.
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).
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.
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 PHVs 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.
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 or the requirement that all taxi and PHV journeys should start and/or end within the area that issued the relevant licences.
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 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.
13	Legislation should be introduced by the Government as a matter of urgency to enable Transport for London to regulate the operation of

No.	Recommendation
	pedicabs in London.
14	The Department for Transport and Transport for London should work together to enable the issue of Fixed Penalty Notices for both minor taxi and PHV compliance failings. The Department for Transport should introduce legislation to provide all licensing authorities with the same powers.
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.
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 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.
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.
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.
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.
22	The Quality Assurance Framework and Common Law Police Disclosure Provisions must be reviewed to ensure as much relevant information of conduct as well as crimes, by taxi and PHV drivers (and applicants) is disclosed ensuring that licensing authorities are informed immediately of any relevant incidents.
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 those cases must be recorded, and the database

No.	Recommendation
	checked for all licence applications and renewals. Licensing authorities must record 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.
24	As a matter of urgency Government must establish a mandatory national database of all licensed taxi and PHV drivers, vehicles and operators, to support stronger enforcement.
27	Government must review the assessment process of passenger carrying vehicle (PCV) licensed drivers and/or consideration of the appropriate boundary between taxis/PHVs and public service vehicles (PSVs).
29	All licensing authorities should use their existing powers to require that the taxi and PHV drivers they license undergo disability quality and awareness training. This should be mandated in national minimum standards.
30	Licensing authorities that have low levels of wheelchair accessible vehicles (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.
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 drivers.

3.3 The report makes the following recommendations for regional government.

No.	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.

3.4 The report makes the following recommendations for local government.

No.	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.

No.	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.
12	Licensing authorities should ensure that their licensing, administration and enforcement functions are adequately resourced, setting fees at an appropriate level to enable this.
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 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.
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.
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.
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.
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 those cases must be recorded, and the database checked for all licence applications and renewals. Licensing authorities must record 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.
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.

No.	Recommendation
26	All individuals involved in the licensing decision making process (officials and councillors) must be obliged to undertake appropriate training. The content of the training must form part of national minimum standards.
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.
29	All licensing authorities should use their existing powers to require that the taxi and PHV drivers they license undergo disability quality and awareness training. This should be mandated in national minimum standards.
30	Licensing authorities that have low levels of wheelchair accessible vehicles (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.
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.
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 to report disability access refusals.
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 or taxi operator.

3.5 The report makes the following recommendations for taxi and private hire providers.

No.	Recommendation
15	All ridesharing services should explicitly gain the informed consent of passengers at the time of a booking and commencement of a journey.
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.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 In the longer term, consultation and engagement on national best practice and legislative changes will take place with the public, trade, staff, passengers and representative groups.

4.1.2 For the recommendations requiring local authorities to review arrangements, listed in section 3.4, Leeds City Council will review against current practice, and include in the forward plan of policy reviews.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 Equality and Cohesion Screening Assessments are carried out on the policies recommended for approval at Licensing Committee which are used to inform decision making.

4.3 Council policies and City Priorities

4.3.1 The Taxi & Private Hire Licensing policies contribute to the following aims:

Best Council Plan 2018/19 – 20/21

Towards being an Efficient and Enterprising Council

Our Ambition and Approach

Our Ambition is for Leeds to be the best city and Leeds City Council to be the best council in the UK – fair, open and welcoming with an economy that is both prosperous and sustainable so all our communities are successful.

Our Approach is to adopt a new leadership style of civic enterprise, where the council becomes more enterprising, business and partners become more civic, and citizens become more actively engaged in the work of the city.

Our Best Council Outcomes

Make it easier for people to do business with us.

Our Best Council Objectives

Promoting sustainable and inclusive economic growth – Improving the economic wellbeing of local people and businesses. With a focus on: -

- Helping people into jobs;
- Boosting the local economy; and
- Generating income for the council.

Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city. With a focus on: -

- Getting services right first time; and
- Improving customer satisfaction.

4.3.2 The importance of air quality as an issue is also reflected in the Council's vision under our Best Council Plan. Our vision is for Leeds to be a healthy city in which to live, work and visit and we are working with partners to reduce emissions which will bring about health and wellbeing benefits including reducing premature deaths, improving health, promoting physical activity and reducing obesity levels. We are raising general health and environmental standards across the city through the promotion of walking and cycling. The Leeds Public Transport Improvement Programme is working to make improvements to the bus and rail networks which will enable reductions in congestion and greater modal shift, supporting a reduction in emissions.

4.3.3 The Council's Taxi & Private Hire Licensing policies contribute to the following priorities: -

- Reduce crime levels and their impact across Leeds;
- Effectively tackle and reduce anti-social behaviour in communities; and
- Safeguarding children and vulnerable adults:

4.3.4 Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and vulnerable adults across all of its services. This cannot be achieved by any single service or agency. Safeguarding is ultimately the responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or vulnerable adults.

4.4 Resources and value for money

4.4.1 As this is an information report, there are no resource or value for money issues to consider. There will be resource implications of putting a number of the recommendations into practice, if they result in operating costs being increased and fees reduced or waived for some types of vehicles, and the burden passed on to other vehicle types. There will also be resource implications if the driver training specification includes additional driver training requirements.

4.4.2 It should be noted that the Taxi and Private Hire Licensing service is cost neutral to the Council and by virtue of the Local Government (Miscellaneous Provisions) Act, 1976, raises its own revenue by setting fees to meet the cost of issuing and administering licenses. This means that any additional costs associated with the proposals will be funded via license fees and will not place additional pressure on the council's budget.

4.5 Legal Implications, Access to Information and Call In

4.5.1 There are no legal implications arising from these proposals and they are not subject to call in or publication.

4.6 Risk Management

4.6.1 The report recommendations are aimed at reducing the risk of passengers posed by current or future licenced drivers.

5 Conclusions

- 5.1 The council has made good progress in improving the safety of the travelling public in Leeds. However, we will only make further improvements if we work more closely with neighbouring authorities, and in line with national best practice.
- 5.2 This report raises a long list of recommendations which, if implemented will change national legislation and national minimum standards. The recommendations also state ways in which local authorities should consider changing their own licensing and enforcement approach.

6 Recommendations

- 6.1 That members note the information in this report.
- 6.2 That members support the proposed review and alignment of the council's ongoing policy review with these recommendations.

7 Background documents

None

Appendices

Appendix 1 Department for Transport Taxi and Private Hire Vehicle Licensing: Steps towards a safer and more robust system