

**THE LAW COMMISSION'S CONSULTATION ON "REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES".**

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**1. Purpose**

- 1.1 The purpose of this report is to provide Members with information on The Law Commission's consultation on "Reforming the law of taxi and private hire services".

**2. Recommendations**

- 2.1 That a Council response be made to all 73 questions/proposals raised by the Law Commissions consultation paper No 203.
- 2.2 That in response to the consultation, recommendations be made:
- (a) that any reforming of the law of taxi and private hire services should address the problems of Cross-Border activity, citing as evidence the problems that presently exist in Milton Keynes with hundreds of Private Hire Vehicles (PHV's), licensed by South Northamptonshire DC, mainly operating within the Borough of Milton Keynes; and
  - (b) that any change in Cross-Border activity, brought about by restricting the licensing of PHV's to the authority within which they mainly intend to trade, should not rely upon national standard conditions for PHV's and licensing officers' enforcement powers should also be enhanced to help remedy this problem.

**3 Issues and Choices**

- 3.1 The terms of reference proposed by the Department of Transport to the Law Commission for this consultation are "To review the law relating to the regulation of taxis and private hire vehicles, with a view to its modernization and simplification, having due regard to the potential advantages of deregulation in reducing the burdens on business and increasing economic efficiency".
- 3.2 The legislation relating to the licensing of Taxis and Private Hire Vehicles is fragmented, complex and out dated we are still enforcing taxi legislation dating back to London Hackney Carriage Act 1831 and Town Police Clauses Act 1847. Whilst the legislation relevant to Private Hire Vehicles is more up to date being the Local Government (Miscellaneous Provisions) Act 1976 part II.
- 3.3 Legislation has obviously not kept up with the technological advances that have taken place over the recent years. The type and variety of vehicles that are available is now much broader. Communication between customers and

operators and operators and drivers has moved on leaps and bounds with new technological advancements simplifying the booking of taxi/PHV's being made readily available.

- 3.4 It can be clearly seen that there is a genuine need for a review of the legislation relating to the licensing of Taxis and PHV drivers, vehicles and operators. The consultation requests responses to both questions and their provisional proposals.
- 3.5 The overview of the provisional proposals in brief are:
- (a) That there should continue to be a split between taxi and private hire trades. (retain the present two tier system.)
  - (b) Only moderate changes to be made to the regulation of taxis. retain the local link with the setting of taxi conditions and fare regulation, licensing and enforcement. Review of the legal definition of 'plying for hire', which covers hailing and ranking but not proposing radical reform. Removing the local authorities power to limit the numbers of taxis licensed in any particular area, "quantity regulation".
  - (c) Private hire services to operate on a national basis. Private hire operators no longer being restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by the same licensing authority. Subcontracting would be allowed as is already the case in London.
  - (d) The setting of national standards for private hire vehicles and drivers and not allowing authorities to impose higher standards than the standard.
  - (e) The setting of national minimum taxi and mandatory private hire standards giving benefits in dealing with those operating on the border of mainstream activity. This would include limousines, motorbikes, wedding and funeral cars, cars hired on longer contracts etc.
  - (f) To improve the enforcement of conditions. Proposals designed to improve cross-border enforcement, and look at the extent to which enforcement officers' powers could be strengthened.
- 3.6 The consultation paper highlights the problem of Cross-Border Issues. In general it can be said that the term "cross-border hire" relates to when a taxi or PHV operates in an area other than that for which it holds a license
- 3.7 The supporting information states that "some cross border problems discussed stem from licensing practices that do not necessarily stem from the legislation itself". Close inspection of the problems "reveals disagreements about what is regarded as fair competition between licensees of neighbouring districts, and between taxis and PHV'S. This is particularly the case where it is claimed that private hire vehicles , as well as out-of area taxis wait for pre-booked work in an area which is not their own".
- 3.8 It further states "Although highly unpopular with the trades in the "host" area. It is unclear what legal rules are being breached. And, from a consumer's point of view, properly managed cross-border services may increase choice and decrease waiting times".

- 3.9 This problem was highlighted by evidence provided to the Transport Select Committee on taxis and private hire vehicles. Where cross-border hire was raised as a serious problem especially when private hire vehicles were waiting in an area they are not licensed, in order to fulfill bookings more easily. A practice predominantly prevalent in city centres, with allegations of out-of area PHV's illegally plying for hire. It was felt that private hire vehicles doing this undermined local licensing.
- 3.10 The consultation states they have looked at the problem of cross-border activity. Suggesting that one remedy might have been to make a condition of "return to area" for both taxis and PHV's once a fare had been dropped off. However, this is dismissed as unenforceable and proposes Provisional Proposal 42 "We do not propose to introduce a "return to area" requirement in respect of out of area drop offs".
- 3.11 There is no proposal to directly limit or inhibit cross-border hiring within this consultation. The suggestion is that this practice can be to the advantage of fare paying customers by introducing more choice and creating a competitive market. Their reforms will " increase competition within the private hire industry", " cross-border restrictions on operators would be removed and local authorities would no longer be able to place additional, unnecessary and at times arbitrary conditions on private hire licenses".
- 3.12 The issue of differing levels of enforcement by bordering authorities are raised "Whilst variations do of course exist between licensing authorities , cases where a licensing authority regulates at such a low level as to render vehicles and drivers licensed by them unsafe would be exceedingly rare"
- 3.13 It further comments "On the other hand, vehicles conforming to different sets of standards operating in one area could lead to confusion for consumers. This also raises the question of the local knowledge of drivers who work like this" .
- 3.14 It is generally accepted that Milton Keynes has a problem with cross-border hire. Speedline which is a taxi operator licensed by South Northamptonshire DC has the majority of its fleet of private hire vehicles operating within the borough of Milton Keynes.
- 3.15 Representation by the operators licensed by Milton Keynes has been made many times, stating that this cross-border practice is affecting their trade and the livelihood of their drivers. Presently it is estimated that nearly four hundred Speedline PHV's work in the Milton Keynes area. This is presently not illegal practice but causes friction between Milton Keynes licensed taxi and PHV drivers and Speedline drivers, increasingly so, during this period of austerity.
- 3.16 The question that needs to be answered is why do some drivers and operators prefer to be licensed with South Northamptonshire DC while working in Milton Keynes. The answer could be down to the cost of licensing, the ease of getting licensed, the local conditions on the license or a combination of any of these factors.
- 3.17 The costs of being licensed as an operator within either borough are not dissimilar although it is accepted that the initial cost of driver application is greater for Milton Keynes, once successful application is made annual licensing is of a similar cost.

- 3.18 The difficulty of getting a drivers license has been raised as a stumbling block by our operators. With our knowledge test being cited as a reason for drivers choosing to work for Speedline. It is alleged that the knowledge test for South Northamptonshire is easier as the questions that can be asked in the “How do you get from A to B.....” type of question are limited. The knowledge required for Milton Keynes is obviously wider and proves more challenging for applicants. It is suggested that drivers work initially for Speedline so they can familiarize themselves with Milton Keynes. They then apply to Milton Keynes and have a better chance of passing the test.
- 3.19 As for the enforcement of conditions Milton Keynes Taxi Licensing enforcement officers have long since been able to enforce licensing conditions on South Northamptonshire licensed driver and vehicles. We have a close working relationship with our enforcement officer counter parts in South Northamptonshire and regularly take enforcement action against their drivers and vehicles. Provisional Proposal 69 “Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensed areas”
- 3.20 It is also proposed to remove the requirement that operator, vehicle and drivers need to be licensed with the same authority, “triple licensing”. 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.”
- 3.21 This is seen as a proposal that would help remove the significance of cross-border issues in respect of private hire vehicles. While we can see how this might support drivers in gaining contract work in another area. How this will reduce cross border activity is not entirely clear. The other proposals suggested that will reduce the significance of cross-border activities are the introduction of national standard conditions for PHV’s and better enforcement powers for enforcement officers. Allowing them to enforce on all taxis and PHV’s operating within their area.
- 3.22 The consultation addresses the topological knowledge test for PHV drivers with Provisional Proposal 27 “Private hire services would not be subject to standards except those relating to safety. Requirements such as topological knowledge would no-longer apply to private hire drivers”. Explaining that while it is recognized as a feature of good quality for a driver to have knowledge of the area that they drive within, as taxi meters as a rule are not used by PHV drivers, it can be argued that no gain should be made from not taking the shortest route. Also with the majority of drivers using electronic navigational devices, planned routes made via a booking can be easily logged in and the best route provided.
- 3.23 It is further suggested that if a driver loses their way then the customer would react to the poor quality of service by showing their dissatisfaction by using another company for future journeys. The operator would lose customers and therefore it would not be in the interest of an operator for their drivers not to know the best and quickest routes from one destination to another.
- 3.24 It maybe that a removal of the topological part of our knowledge test would see an increase in the number of driver applicants deciding on being licensed in Milton Keynes as oppose to South Northamptonshire. Our knowledge test

would then consist of questions on the highway code and on conditions of the vehicle and drivers licence.

- 3.25 However, legislation to make it mandatory to be licensed within the area that any driver is considering to operate within, would effectively stop the cross-border issues that Milton Keynes and other cities are blighted by. The enforcement would be relatively straight forward as operator records are accessible upon demand and taxi drivers should be making records of their journeys and make them available for inspection at the request of an enforcement officer.
- 3.26 Separate legislation would be needed for PHV's operating within London due to the relatively small size of boroughs and the difficulty for private hire services to operate within one borough. However, this has always been the problem with London and is recognized by having it's own set of legislation.

All local Authorities and other stakeholders are requested to return the consultation by the 10th September 2012. The Consultation paper No 203, consists of 241 pages, 20 chapters and one appendix listing the 73 questions and provisional proposals.

Link to consultation document.

[http://lawcommission.justice.gov.uk/docs/cp203\\_taxi-and-private-hire-services.pdf](http://lawcommission.justice.gov.uk/docs/cp203_taxi-and-private-hire-services.pdf)

A summary can be found.

[http://lawcommission.justice.gov.uk/docs/cp203\\_taxi-and-private-hire-services\\_summary.pdf](http://lawcommission.justice.gov.uk/docs/cp203_taxi-and-private-hire-services_summary.pdf)

An Impact Assessment for this consultation was produced but has since been withdrawn for amendments.

Reforming the law of taxi and private hire services IA no: LAWCOM0016

## **4 Implications**

### **4.1 Policy**

This consultation has a number of implications on policy as any changes to the statutory legislation would have major implications on the present conditions of enforcement. There would be a need to change all our present conditions in line with any statutory changes.

### **4.2 Resources and Risk**

There would be considerable resources issues in both implementation of any new legislation and training of enforcement officers on new conditions. New conditions for taxi would have to be implemented in addition to any minimum conditions that were made. However if national model conditions were made then our Private hire vehicle conditions could be replaced. There may be risk to income from fees and charges if the fee charging scheme is replaced with a national scheme and fees not set locally but this is not mentioned within the consultation. The other risk being that if operators can operate from any location and use drivers licensed within another area it is possible that license fees could be lost.

## **5 Resources**

- 5.1 There is officer time involved in providing responses to this consultation. The consultation is not short requiring 73 responses and consultation being required with officers from within different teams within the council including the Regulatory Unit and colleagues in Passenger Transport.
- 5.2 If officer time is costed at an average of £25 per hour it is estimated that the response to this consultation should be in the region of £500.

## **6 Legal**

Law Commission Consultation Paper no 203, REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES.

London Hackney Carriage Act 1831

Town and Police Clauses Act 1847- General provisions regarding the licensing and operation of Hackney Carriages

Local Government (Miscellaneous Provisions) Act 1976

House of commons Committee, Taxis and private hire vehicles the road to reform (12 July 2011) HC720