

# THE NATIONAL PRIVATE HIRE ASSOCIATION

8 Silver Street, Bury, Lancashire BL9 0EX. Tel: 0161-280 2800 Fax: 0161-280 7787 Email: [npha@btconnect.com](mailto:npha@btconnect.com)

5 September 2008

Mr S Culleton  
Licensing Manager  
Chorley Council  
By email: [Stephen.culleton@chorley.gov.uk](mailto:Stephen.culleton@chorley.gov.uk)

REF: Proposed hackney carriage and private hire licensing conditions and testing regime/costings

Dear Sir

We understand that today is the deadline for submissions under your consultation process concerning the above matter; we wished to include representations on behalf of our members in your area in time for those representations to be included in the presentation to the next Licensing and Public Safety Committee on 17 September.

We were scheduled to attend a meeting at your council offices a fortnight ago with our members to discuss the proposals; very unfortunately I had to let the trade down, as a last-minute emergency occurred in connection with the urgent Administrative Court case being heard within the next week concerning licensing matters, in which we are representing the 1<sup>st</sup> Interested Party and we had to act very quickly and make further submissions.

We have only just had the opportunity of going over again the proposals, both in the form of licensing conditions and proposed costings for the testing regime. We wished to make the following observations, over and above those already submitted by the trade locally:-

1. In the interest of clarity and ease of understanding – as upheld in the case of **R –v- Blackpool Borough Council ex parte Red Cab and Others** - we believe that the layout of both the conditions and the testing procedures should be scrutinised very carefully before finalising into a policy document. As an example, we know that your colour livery is that hackney carriages have to be white, and private hire vehicles have to be any other colour but white. However, within the Appendix E1/E2 documents setting out the conditions to go on the back of licences, the private hire conditions at (j) under 'type of vehicle' state that private hire vehicles must be white. This is obviously an administrative error, but one that would lead to confusion to both new applicants and existing licence holders.
2. On the subject of administrative errors, we are advised that several of the licensing department's recent administrative procedures have caused, or could have caused, difficulties for licence holders as regards licence dates not matching up with window discs, and test dates not matching up with the vehicle's actual licence dates. We are informed that the council has been writing to licence holders on this subject, with a view to issuing temporary licences for shorter periods of time to bridge the dates that do not match. We would request that the licensing department operate with a degree of leniency with licence holders while this situation is regularised.

3. Without a doubt, the issue that is causing grave concern amongst Chorley licence holders is the draconian age conditions that you are setting out, including the structured test regime for older vehicles and – most importantly – the cost of that additional testing. We understand that a council's primary remit is the safety of the travelling public; we also are fully aware that under section 50 of the Local Government (Miscellaneous Provisions) Act 1976 a district council may test vehicles up to three times in any twelve-month period.

However, the proposed MoT and compliance regime, and the cost of those tests, strike us as being disproportionate to the perceived problem you may have with licensed vehicles in the area. We note from a BBC news release last month that a recent roadside 'swoop' exercise resulted in several vehicles being issued with seven-day rectification notices. However, Councillor Iris Smith, chairman of the Licensing and Public Safety Committee, was quoted as saying that "although it was disappointing to see some taxis being driven with defects, it was reassuring to hear that none had to be taken off the road."

We would therefore ask that, before the proposals are approved as new conditions, the licensing department provide the Committee with statistical evidence to justify their proposed age and testing criteria.

4. We have had a look at the various documents that break down the current and proposed costings for vehicle testing, and once again would advise you that the licensed trade feels very strongly that these figures are vague and inaccurate as regards the current cost of the various tests, and this vagueness makes the proposed costing figures appear to be less horrendously prohibitive than they really are. Before these figures are presented to the September Committee, may we recommend that the 'current' fees are presented accurately, rather than as a range of figures.

Obviously before any final future costings are approved, they must be advertised in the local press under LGMPA section 70, so there will be opportunities to lodge objections at that time. However, we suggest that further discussion takes place between the council and the trade before the proposed costings are put forward for Committee approval.

5. As regards the age restriction on both hackney carriage and private hire vehicles, we submit again for your consideration the document the NPHA has put forward to every local authority who is considering age policies/conditions. We would suggest that the wording of the age restriction(s) be expanded to include the phrase "unless in exceptional condition" in order that the council does not fetter its discretion.

In our experience, if an age condition is challenged through the Magistrates' Court, it is less likely to be overturned if each case is considered on its merits. If a Bench of Magistrates were presented with, for example, a spotless nine-year old Mercedes 300 saloon with 18,000 genuine miles on the clock and told that your council would not license that vehicle because of its age (as happened when we challenged the age condition in Slough some years ago), the Magistrates would strike out the condition as being 'not reasonably necessary'.

6. Minimum engine size: again this is somewhat unclear; the website information states 1400cc, and yet we are informed that this has been changed to 1200cc. Please clarify to both the licence holders and the Committee.
7. Vehicle safety report guidelines: point (6) about "estate cars must be fitted with a securely fixed, suitable means of luggage restraint..." We have encountered this condition in other authorities, and unfortunately there are very few motor manufacturers that have anything available as an accessory that would fulfil your condition – except those two or three

manufacturers that offer a dog guard for estates. In our experience, and more importantly in the experience of estate taxi users, most estate cars have sufficient restraint either in the form of a parcel shelf or a tonneau cover that keeps luggage stowed in the rear compartment safely. Anything more permanent would not allow the rear seats to be put down if desired at other times.

8. We would echo the submission of Allansons mentioned below in saying that the council's proposals should be reviewed once again in light of the final publication of the DfT Best Practice Guidance document, which was actually published in November 2006, copy attached. We would highlight in particular paragraphs 7-9 under 'Policy Justification' regarding the cost of implementation of any conditions, and paragraph 22 under 'Vehicle Testing'.

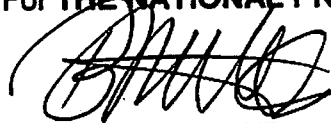
Over and above the points mentioned in this letter, may we commend and support the document submitted by Messrs Allansons Solicitors on behalf of the Chorley Hackney Carriage Association. We enclose another copy of that document herewith, in case the original was misplaced or not retained when it was first sent in. We understand the document was prepared for the last Licensing and Public Safety Committee on 4 June 2008, but as a result of its submission the agenda item was pulled from that meeting. We are hopeful that all submissions will be considered on the 17<sup>th</sup> September.

We offer all of this documentation in a spirit of cooperation, and in the hope that further discussion will take place prior to finalisation of the new proposals.

Thank you for your consideration.

Yours faithfully

For **THE NATIONAL PRIVATE HIRE ASSOCIATION**



**BRYAN M ROLAND**  
**General Secretary**

cc: Cllr Iris Smith – Chair, Licensing and Public Safety Committee

# **AGE POLICIES**

## **A VIEW - AND ALTERNATIVE SUGGESTIONS** **by** **THE NATIONAL PRIVATE HIRE ASSOCIATION**

### **BACKGROUND**

The National Private Hire Association has spent some considerable time over the last fifteen years addressing and, on occasion, opposing the imposition of age policies by local authorities, both in the Council Chamber and in courts.

In preparing evidence to present to Councillors and the courts we have discovered that, very often, the perception of the licensing authority that the age of the vehicle alone should be the fundamental and controlling factor in imposing a vehicle licensing regime is flawed.

Close examination of the vehicle testing records of various councils has clearly shown that although a case can be made that vehicles are indeed affected by age and/or high mileage, there are disturbing statistics to be shown for younger and "acceptable" vehicles.

Evidence can be shown that licensed vehicles do indeed have a "shelf life", and as maintenance problems increase the average driver will indeed replace his vehicle. Common sense indicates that diminishing returns in income are a far more telling cause for vehicle replacement than conditions of licence.

Many examples exist of vehicles, purchased as being acceptable to the licensing authority, having to be replaced within the first year of service because they proved, in service, to have serious defects. Conversely in those areas that do impose age policies, Council Committees and the courts spend many hours hearing appeals from drivers who believe that their vehicles, regardless of age, are fit to continue in service. Quite a lot of these appeals are upheld.

It follows that the questions arising from "vehicle fault statistics" (VFS), acquired both from enforcement exercises and annual routine vehicle test sheets, need careful analysis. We have found that VFS's raise one fundamental question that often begs a considered reply and that is: - What is it exactly that the Council trying to achieve? Very often the initial report to the licensing Sub Committee fails to highlight the full nature of the problem, which in turn can lead to costly appeals to the courts and possible overturning of the initial decision.

The experience gained by the Association has led it to formulate a new philosophy in addressing those problems which councils perceive might be resolved by the adoption of such a policy.

What are those problems?

## **PROBLEMS**

- That the local vehicle stock is of poor quality, and generally aged.
- That there is evidence of lack of maintenance as evidenced by VOSA/Council exercises.
- Poor returns from the testing station and local enforcement exercises generally
- Public complaints

Faced with some or all of the evidence above, many local authorities take steps to rectify their particular perceived situation and many have reacted by introducing age policies and/or stricter or more numerous testing regimes.

Having said that, it has become apparent that many local authorities, having adopted a more rigorous regime, find that many of the problems persist and they are left with the inevitable questions: [1] Why is there little or no improvement? and, [2] Where do we go from here?

## **WHAT CAUSES THE PROBLEMS AND WHY THEY PERSIST**

Of course, many drivers do not see that there is a problem in the first place, and they are the first to voice concerns about rules that are more draconian. That is because they are, for the most part, representative of that section of the trade who look after their vehicles and ensure that, when they are presented for inspection, those vehicles are prepared for that inspection.

Amazing as it may seem, in all the many reports to Licensing Committees we have seen, there has never been a section which analysed the statistics of the better side of the trade to see if lessons could be learned from those who obviously comply with the law, and to act as a benchmark for Licensing Committees in setting new conditions. In short, only one side of the picture is given.

All the reports we have seen address that segment of the trade who never appear to worry about maintenance or vehicle condition generally. They are the ones who regularly fall foul of enforcement exercises. Furthermore, when their vehicle is due for inspection they, perversely, seem to seize upon that very inspection as merely an opportunity to find out what is wrong with the vehicle, so that they can then have those points attended to.

Of course, the introduction of an age policy or a stricter or more regular testing regime does not impact upon this section of the trade. They will always have faulty vehicles regardless of the vehicle's age.

We find that the good driver with high standards will always search for a really sound or brand new vehicle which is going to stand the test imposed upon it by our trade; and, having acquired that vehicle, he/she will maintain it properly and regularly, and will, year after year, turn up at the vehicle testing station with a fully prepared car.

The other side of the trade, of course, has a different philosophy. Instead of searching for a really sound vehicle which is going to stand the test imposed upon it by our trade, they will go into the market to look for the cheapest possible vehicle that will do the job and pass the council's set criteria.

These drivers' maintenance schedules will not improve, and it is certain that their attitude to presenting vehicles for test will continue.

In any event it is never the car itself that is guilty of failing to maintain itself; it is always the vehicle proprietor.

At this point we have to insert a parameter which we have never observed in any report to Licensing Committees, and that is the financial ability of the drivers to purchase sound vehicles in the first place, let alone any of the proposed new/newer vehicles.

One problem is that the many suppliers of new vehicles to the trade, and who commonly advertise in the trade press, report that a high proportion (as high as 61% - Nissan Finance) are refused finance to purchase vehicles in the first place. These drivers are then forced to shop around for less attractive terms to enter or continue in the trade, and can pay very high APR rates (29% to 32% is not uncommon).

However most of those drivers will then, having learned lessons from experience, ensure that their credit history is improved by meeting all repayment dates and will ensure that the vehicle is well maintained in order to protect their income, but obviously at a very high price.

A local authority cannot in all conscience restrict its policies on the basis of those who will always maintain a bad credit record.

A glance at our trade newspaper will quickly show that from £30 to £100 brand new vehicles are available from Skoda's at the cheap end to Mercedes at the top end. So, either at entry into the trade or while working in it most drivers will sort out the credit history and be able to afford even brand new vehicles.

So, of those who run less acceptable vehicles, a percentage will do so out of circumstance rather than choice. But that does not mean that those drivers will all fail to maintain their vehicles.

Statistics from the testing station can easily separate the conscientious driver of the older car from the "couldn't care less" driver. The first will maintain the vehicle, which will often pass the vehicle test first time; the latter will not maintain and consequently provides the worst VFS's, which in turn will attract the attention of licensing and enforcement officers and councillors.

A more telling statistic will show that a percentage of those who can purchase new/newer vehicles also appear on the VFS sheets, will fall foul of enforcement exercises and be found wanting on a daily check basis.

Unfortunately, it is true to say that the "couldn't care less" attitude is not only hard to correct but, if the wrong level of enforcement is employed, it can be catching. It is hard to combat the "If he can get away with it, so can I" frame of mind.

We do not need to ask any particular licensing or enforcement officer whether he knows drivers of both categories. We are certain that all officers could probably list many of them without reference to his or her files.

Councils who have VFS problems which affect public safety must react, and age policies often appear to be an attractive solution. This seems to be the case regardless of the fact that most councils have been licensing these vehicles for over 25 years and that despite their best efforts, including age policies and more regular testing, these vehicle defect problems still remain and are still caused by the very same drivers whose lack of respect for the law led to the imposition of the policy in the first place.

It often follows that the imposition of an age policy very often places the greatest burden on those who are used to buying new/newer vehicles and cossetting those vehicles to get maximum usage from them. What stands out to this Association is the fact that most licensing authorities would wish to support these better drivers as examples of what they would like to see as the norm in their area.

In the normal course of events a standard vehicle may last three, four, five years or longer; prestige vehicles will normally last much longer. As we have said, it is important to note that very often these better vehicles have to be purchased on finance, which again may be over three or four years. Age policies with narrow parameters (i.e. no older than three years at first licence and off at six or seven years old) can often mean that the better driver is locked in to the "hire purchase /APR trap" and paying that APR to work for the rest of their time in the trade.

We always ask councils to remember that it is only the periods between borrowings on finance agreements which give drivers APR-free incomes. If someone is used to maintaining a vehicle for six, seven, eight years or more, the APR-free period may well be essential to secure his deposit or payment for his next vehicle.

Conversely, and in the meantime, the couldn't-care-less driver may go through two or even three bangers purchased at rock bottom price to give maximum return in the short run; and besides, who cares about conditions of licence?

### **TIME FOR CHANGE?**

In conversation with licensing officers, we readily discover that there are always numbers of operators, proprietors and drivers who cause the council and the travelling public no problem whatsoever. The licensing officer's problem is how to deal with the cowboy element without imposing such a bevy of rules that it affects the good guys. Simple: the answer is to chase the bad guys.

But surely that is what the enforcement role of the council is supposed to encompass?

Conditions of licence are set to ensure that rules are followed in order that the public is protected. All councils set conditions, so why do so many have to revisit those conditions so often to fine tune or correct perceived problems?

We believe strongly that for those who follow and observe the rules, it is only the lawbreakers who spoil what otherwise would be a relatively simple occupation. As stated

above, the fact that councils chase the lawbreakers with added conditions always impacts on the good faction of the trade, not the cowboys. Consequently we find considerable support amongst the conscientious drivers for a fine tuned and targeted enforcement role, i.e. "Don't come after us - go after the cowboys."

As an alternative to continuing to implement the council's existing age policy or testing period, we suggest the introduction of what will become a self-disciplinary regime: in simple terms, the age policy guidelines should be set aside, but the council should impose three tests per year after clearly defined age limits are reached.

### **AGE LIMITS (TESTING PARAMETERS)**

Whilst we believe that it is not sound policy to set a vehicle age limit in the hope that this will "cure" VSF problems, we do accept that there is clear evidence that older vehicles need a higher level of maintenance to keep them safe for the road.

We suggest that councils should set testing parameters based on the vehicle's age, and not just set age limits on what they will consider for licence. For example:

- Vehicle up to three years old – test once a year
- Vehicle between three and six years old – test twice a year
- Vehicle over six years old -- test three times a year

Many councils may retort, "We have tried that before but it did not work"; to which we reply "Ah, but then you brought in an age policy and that policy is also under constant attack either by those who are financially burdened or by those who still fail to maintain their vehicles."

We believe that any testing regimes or age policies are not, in themselves, enough to identify and eradicate that problem element within the trade which needs correction. It is the attitude of the bad driver which must be changed; therefore we suggest that the council should introduce a "three-strikes-and-out" rule.

A search through council files will show that the worst examples of failure certificates involve major Construction and Use problems: brakes, steering, tyres etc. These are the vehicle defects which will cause a vehicle's immediate suspension, either on routine test or on enforcement exercises.

These defects are the one easily identifiable constant in all vehicle testing procedures and disciplines and therefore should, we suggest, form the basis of new conditions.

### **CHANGE THE CONSEQUENCES**

If any vehicle fails the test on, say, three or four Construction and Use items – and here we must make sure we are not being frivolous by clarifying that three cigarette burns and a scratch on the paintwork do not amount to Construction and Use problems – then the council should on the first occasion issue a warning in writing to the effect that:

*"We note that your vehicle was presented for licensing in such a condition that gives us concern that the vehicle may not be being properly maintained. You are*



*warned that on a second such failure, you will be required to go before Committee to explain yourself. A copy of this letter will be attached to your file."*

If the council has a "one or two tests a year policy" then that negligent proprietor should also be advised in the same letter that:

*"In view of the serious nature of the faults found on your vehicle you will now be required to present your vehicle for testing three times a year.*

In taking such action the council puts clear pressure on the driver to mend his ways "or else".

On the second serious test failure, the driver should be brought before Committee and should be given a formal warning and perhaps a penalty suspension, and should be issued with a letter which in effect says, "The next such failure will lead to the revocation of the vehicle licence."

The council may also wish to consider adding to that warning, "consideration will also be given to the revocation of your proprietor's/driver's licence as being not fit and proper to hold such a licence, in that maintenance of your vehicle should have been paramount to you, especially after having had two clear written warnings."

On the third occasion the vehicle should not be allowed back for re-inspection, and a vehicle and/or driver licence refusal/revocation should be issued.

Certainly the driver has a right of appeal, but the council has more than enough evidence to show that on the three-warnings-and-out basis there are significant doubts about, on the one hand the vehicle's roadworthiness (it has a high, demonstrably non-maintained, mileage); and also demonstrably, the driver's attitude to authority is patently lacking (a point that magistrates often pick up on).

Most importantly the council will have a clear audit trail to show the court in the event of an appeal.

But what about the Operator? The private hire operators are very often either unaware or, in some cases, not prepared to accept that in taking a contract for the hire of a vehicle, they are vicariously liable for ensuring that the vehicle and its driver are fit for purpose.

We are aware that amongst the better operators, they have some parameters in force which ensure that the vehicles they operate are up to scratch. Unfortunately most operators do not. The VSF statistics gathered in the course of testing and enforcement exercises give a local authority clear evidence as to whether an operator is bothering to maintain a fleet fit for purpose.

In dealing with the driver in the manner suggested above, it seems only logical to us that a copy of that warning letter, together with a letter warning the operator about their responsibilities, should also be sent; and as in the progression with the drivers, once sufficient evidence has been collated, then that operator should also be brought before the Committee to explain why he or she is running a business with so little control.

The hackney carriage industry for the most part consists of independent drivers, but there are clear examples of some proprietors owning several vehicles which they rent out, and obviously the same parameters should be applied to those multiple vehicle proprietors as to the private hire operators.

### **CONSULTATION AND TRADE APPROVAL**

We have found that, on consultation, the majority of the responsible trade in any area who do maintain their vehicles properly will readily vote for such a testing regime as an alternative to age policies.

The one statistic that a local authority will have to consider is what percentage of the entire fleet of vehicle owners could be regarded as "responsible." We unfortunately have to note that the VFS records in some areas show that the "responsible" section is a smaller rather than larger percentage of the whole.

Our reaction to such a problem has to be "all the more reason to bring in a three strikes and out policy"

The trade will readily grasp the fact that a licensable five year old Mercedes would be a much sounder investment - and that passengers might well prefer to travel in such a vehicle -than a three or four year old standard saloon.

It is also true to say that both the trade and the licensing officers may well look forward to the removal of those who year in and year out, regardless of vehicle age, bring the trade into disrepute.

### **CONCLUSION**

We ask all who read this document to carefully consider: "What is it that any policy set by a local authority is trying to achieve?" We suggest that public protection is and must be the only answer. If the present policy ensures that the imposed financial burden does not in fact eradicate faulty vehicles, then we advocate that the above suggestions may be a more exacting and corrective regime.

In addition, the council is reminded that to impose an absolute age policy fetters their discretion, and this will be easily overturned in court. Neither unfortunately can they introduce a mileage policy, as this has already been tested in the case of **Sharpe -v- Nottingham City Council**.

Finally, due consideration should be given to the fare structure in any area, thereby determining whether the trade can in fact afford to maintain their vehicles in the first place, irrespective of their age. This applies to both hackney carriage drivers, whose fares are set by the council, and private hire drivers, whose fares whilst not regulated by local authorities, are more often than not pitched similarly or just below the hackney tariff.

Once again we have found that, when examined as an issue in the witness box, lack of affordability very frequently overturns a vehicle age policy if the local authority has not approved a taxi fare increase for any length of time.

It is also a provable fact that if drivers are working greatly extended hours – 60 to 80 hours being not uncommon – in order to make a living, then paying for vehicle maintenance decreases in importance not only financially, but in time and periodicity. If a driver is working 80 hours a week, the rest of the time he will probably be asleep. Taking a day off to get a vehicle serviced may result in the driver having to put in another ten hours on the other shifts he works that week.

To illustrate, a 20-pence increase on the flagfall or initial charge in areas where drivers average 25 jobs per day over the year, will give them an increase of £1,800 per year. Due consideration should be given under Best Value to comparing existing levels of fares with local and national averages. The cost of a vehicle, and its maintenance, will not differ dramatically anywhere in the UK. Clearly incomes, and the ability to allow for the time off, are crucial factors in the maintenance of vehicles.

A simple example: We asked a number of drivers why they had been caught with bald tyres; the answer was always financial. Although some maintain that they had forgotten, when pressed, they affirmed that if they had had the cash available they would not have delayed.

Just such delay, and subsequent lapse in public safety, can be prevented by a re-examination of council policy as outlined in this document.

# **Taxi and Private Hire Vehicle Licensing: Best Practice Guidance**

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## Introduction

1. This Guidance is issued with the aim of assisting those local authorities in England and Wales that have responsibility for the regulation of the taxi and private hire vehicle (PHV) trades.
2. The Guidance follows the publication in November 2003 by the Office of Fair Trading of a market study of the regulation of taxis and PHVs in the UK. One of the recommendations of that study was that the Department for Transport (DfT) should produce guidance on best practice for the local licensing authorities concerned. The Guidance is issued in fulfilment of that recommendation.
3. However, it will be appreciated that it is for individual licensing authorities to reach their own decisions both on overall policies and on individual licensing matters, in the light of their own views of the relevant considerations.
4. The Department consulted on a draft version of the guidance in the autumn of 2005. We are grateful for all the views expressed on that draft. A summary of the consultation responses and our reaction to them is available on the DfT web-site. Some respondents to the consultation draft felt that the document should be made more prescriptive whilst others felt that the draft struck the right balance in this respect. Taxi and private hire vehicle legislation makes it clear that it is primarily for local licensing authorities to make decisions on the matters covered in this guidance. Furthermore, it is right that local circumstances and requirements are taken into account in making these decisions in each licensing area. So we have in general resisted the calls for the guidance to be more prescriptive. The key purpose of the guidance remains, as proposed in the draft version, to assist local decision-making by setting out the main considerations authorities might wish to take into account in reaching the right balance between costs and benefits in determining the licensing policies for their area.

## The Role of Taxis and PHVs

5. Taxis (more formally known as hackney carriages) and PHVs (or minicabs as some of them are known) play an important part in local transport. In 2003 some 650 million journeys were made by taxi and PHV in Great Britain, and households spent around £3 billion on taxi and PHV journeys; spending by businesses and foreign visitors was a substantial extra figure. Taxis and PHVs are used by all social groups; low-income young women (amongst whom car ownership is low) are one of the largest groups of users.
6. Taxis and PHVs are also increasingly used in innovative ways - for example as taxi-buses - to provide innovative local transport services (see paras 63-66).

## The Role of Licensing: Policy Justification

7. The aim of local authority licensing of the taxi and PHV trades is to protect the public. Local licensing authorities will also be aware that the public should have reasonable access to taxi and PHV services, because of the part they play in local transport provision. Licensing requirements which are unduly stringent will tend unreasonably to restrict the supply of taxi and PHV services, by putting up the cost of operation or otherwise restricting entry to the trade. Local licensing authorities should recognise that too restrictive an approach can work against the public interest - and can, indeed, have safety implications.
8. For example, it is clearly important that somebody using a taxi or PHV to go home alone late at night should be confident that the driver does not have a criminal record for assault and that the vehicle is safe. But on the other hand, if the supply of taxis or PHVs has been unduly constrained by onerous licensing conditions, then that person's safety might be put at risk by having to wait on late-night streets for a taxi or PHV to arrive; he or she might even be tempted to enter an unlicensed vehicle with an unlicensed driver illegally plying for hire.

## Taxi and Private Hire Vehicle Licensing: Best Practice Guidance

9. Local licensing authorities will, therefore, want to be sure that each of their various licensing requirements is in proportion to the risk it aims to address; or, to put it another way, whether the cost of a requirement in terms of its effect on the availability of transport to the public is at least matched by the benefit to the public, for example through increased safety. This is not to propose that a detailed, quantitative, cost-benefit assessment should be made in each case; but it is to urge local licensing authorities to look carefully at the costs - financial or otherwise - imposed by each of their licensing policies. It is suggested they should ask themselves whether those costs are really commensurate with the benefits a policy is meant to achieve.

## Scope of the Guidance

10. This guidance deliberately does not seek to cover the whole range of possible licensing requirements. Instead it seeks to concentrate only on those issues that have caused difficulty in the past or that seem of particular significance. Nor for the most part does the guidance seek to set out the law on taxi and PHV licensing, which for England and Wales contains many complexities. Local licensing authorities will appreciate that it is for them to seek their own legal advice.

## Consultation at The Local Level

11. It is good practice for local authorities to consult about any significant proposed changes in licensing rules. Such consultation should include not only the taxi and PHV trades but also groups likely to be the trades' customers. Examples are groups representing disabled people, or Chambers of Commerce, organisations with a wider transport interest (eg Transport 2000 and other transport providers), womens' groups or local traders.

## Accessibility

12. Local licensing authorities will want to consider how accessible the vehicles they license as taxis are for disabled people (which includes - but is not limited to - people who need to travel in a wheelchair).

13. Licensing authorities will know that the Department has for some years now been working on proposals which would substantially improve taxi provision for people with disabilities. This work is continuing and an announcement will be made in due course. In the meantime licensing authorities are encouraged to introduce taxi accessibility policies for their areas. The Department's letter to local licensing authorities of 9 September 2002, the relevant part of which was repeated in the letter of 16 June 2004, gave more detailed guidance.

14. Different accessibility considerations apply as between taxis and PHVs. Taxis can be hired on the spot - in the street or at a rank - by the customer dealing directly with a driver; but PHVs can only be booked through an operator. It is important that a disabled person should be able to hire a taxi on the spot with the minimum delay or inconvenience, and having accessible taxis available helps makes that possible. For PHVs, it may be more appropriate for a local authority to license any type of saloon car, noting that some PHV operators offer accessible vehicles in their fleet.

## Existing duties under the Disability Discrimination Act 1995 (DDA)

15. Since 31 March 2001 licensed taxi drivers in England and Wales have been under a duty (under s.37 of the Disability Discrimination Act 1995) to carry guide, hearing and other prescribed assistance dogs in their taxis, without additional charge. Drivers who have a medical condition that is aggravated by exposure to dogs may apply to their licensing authority for exemption from the duty on medical grounds. Any other driver who fails to comply with the duty is guilty of a criminal offence and liable, on summary conviction, to a fine of up to £1,000. Similar duties covering PHV operators and drivers have been in force since 31 March 2004.

16. Enforcement of the duties is the responsibility of local licensing authorities. It is therefore for authorities to decide whether breaches should be pursued through the courts or considered as part of the licensing enforcement regime, having regard to guidance issued by the Department.

## **Duties under the DDA , as amended by the Disability Discrimination Act 2005**

17. The Disability Discrimination Act 2005 amended the DDA 1995 to enable the Government to lift the exemption in Part 3 of that Act for operators of transport vehicles. The amendment allowed for the exemption to be lifted for different services, at different times and to different extents. Regulations have been made to lift the exemption in relation to vehicles used to provide public transport services, including taxis and PHVs, as well as for vehicle hire services and breakdown services. These Regulations come into force on 4 December 2006 and will effectively apply certain duties in Part 3 of the DDA 1995 to providers of transport services who provide such services through the use of specified vehicles. In order to meet these new duties, licensing authorities will be required to review any practices, policies and procedures that make it impossible or unreasonably difficult for a disabled person to use their services. The Disability Rights Commission (DRC) has produced a Code of Practice to explain the new Part 3 duties for the transport industry. This is on the DRC's website at [www.drc-gb.org](http://www.drc-gb.org). The Code is a supplement to, and should be read in conjunction with, the Code of Practice for Part 3 of the Act: Rights of Access to Services and Premises, which is also on the website. An example of responding to these new duties would be providing - for use in informing passengers - Braille cards to those drivers exempted from the duty to carry prescribed assistance dogs.



## Vehicles

### Specification Of Vehicle Types That May Be Licensed

18. The legislation gives local authorities a wide range of discretion over the types of vehicle that they can license as taxis or PHVs. Some authorities specify conditions that in practice can only be met by purpose-built vehicles but the majority license a range of vehicles.

19. Normally, the best practice is for local licensing authorities to adopt the principle of specifying as many different types of vehicle as possible. Indeed, local authorities might usefully set down a range of general criteria, leaving it open to the taxi and PHV trades to put forward vehicles of their own choice which can be shown to meet those criteria. In that way there can be flexibility for new vehicle types to be readily taken into account.

20. It is suggested that local licensing authorities should give very careful consideration to a policy which automatically rules out particular types of vehicle or prescribes only one type or a small number of types of vehicle. For example, the Department believes authorities should be particularly cautious about specifying only purpose-built taxis, with the strict constraint on supply that that implies. (There are at present only two designs of purpose-built taxi.) But of course the purpose-built vehicles are amongst those which a local authority could be expected to license. Similarly, it may be too restrictive to automatically rule out considering Multi-Purpose Vehicles, or to license them for fewer passengers than their seating capacity (provided of course that the capacity of the vehicle is not more than eight passengers).

### Imported vehicles: type approval (see also "stretched limousines", paras 26-28 below)

21. It may be that from time to time a local authority will be asked to license as a taxi or PHV a vehicle that has been imported independently (that is, by somebody other than the manufacturer). Such a vehicle might meet the local authority's criteria for licensing, but the local authority may nonetheless be uncertain about the wider rules for foreign vehicles being used in the UK. Such vehicles will be subject to the 'type approval' rules. For passenger cars up to 10 years old at the time of first GB registration, this means meeting the technical standards of either:

- a European Whole Vehicle Type approval;
- a British National Type approval; or
- a British Single Vehicle Approval.

Most registration certificates issued since late 1998 should indicate the approval status of the vehicle. The technical standards applied (and the safety and environmental risks covered) under each of the above are proportionate to the number of vehicles entering service. Further information about these requirements and the procedures for licensing and registering imported vehicles can be seen at [http://www.dft.gov.uk/stellent/groups/dft\\_roads/documents/page/dft\\_roads\\_506867.hcsp](http://www.dft.gov.uk/stellent/groups/dft_roads/documents/page/dft_roads_506867.hcsp).

### Vehicle Testing

22. There is considerable variation between local licensing authorities on vehicle testing, including the related question of age limits. The following can be regarded as best practice:

- **Frequency Of Tests.** The legal requirement is that all taxis should be subject to an MOT test or its equivalent once a year. For PHVs the requirement is for an annual test after the vehicle is three years old. An annual test for licensed vehicles of whatever age (that is, including vehicles that are less than three years old) seems appropriate in most cases, unless local conditions suggest that more frequent tests are necessary. However, more frequent tests may be appropriate for older vehicles (see 'age limits' below). Local licensing authorities may wish to note that a review carried out by the National Society for Cleaner Air in 2005 found that taxis were more likely than other vehicles to fail an emissions test. This finding, perhaps suggests that emissions testing should be carried out on ad hoc basis and more frequently than the full vehicle test.
- **Criteria For Tests.** Similarly, for mechanical matters it seems appropriate to apply the same criteria as those for the MOT test to taxis and PHVs\*. The MOT test on vehicles first used after 31 March 1987 includes checking of all seat belts. However, taxis and PHVs provide a service to the public, so it is also appropriate to set criteria for the internal condition of the vehicle, though these should not be unreasonably onerous.

\*A manual outlining the method of testing and reasons for failure of all MOT tested items can be obtained from the Stationary Office see  
<http://www.tsoshop.co.uk/bookstore.asp?FO=1159966&Action=Book&From=SearchResults&ProductID=0115525726>

- **Age Limits.** It is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not license vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be appropriate for older vehicles - for example, twice-yearly tests for vehicles more than five years old.
- **Number Of Testing Stations.** There is sometimes criticism that local authorities provide only one testing centre for their area (which may be geographically extensive). So it is good practice for local authorities to consider having more than one testing station. There could be an advantage in contracting out the testing work, and to different garages. In that way the licensing authority can benefit from competition in costs. (The Vehicle Operators and Standards Agency - VOSA - may be able to assist where there are local difficulties in provision of testing stations.)

## Security

23. The owners and drivers of vehicles will often want to install security measures to protect the driver. Local licensing authorities may not want to insist on such measures, on the grounds that they are best left to the judgement of the owners and drivers themselves. But it is good practice for licensing authorities to look sympathetically on - or actively to encourage - their installation. They could include a screen between driver and passengers, or CCTV. Care however should be taken that security measures within the vehicle do not impede a disabled passenger's ability to communicate with the driver. Licensing authorities may want to encourage the taxi and PHV trades to build good links with the local police force, including participation in any Crime and Disorder Reduction Partnerships. There is extensive information on the use of CCTV, including as part of measures to reduce crime, on the Home Office web-site, <http://www.homeoffice.gov.uk> (and see for instance, <http://www.crimereduction.gov.uk/cctvminisite4.htm>).

## Vehicle Identification

24. Members of the public can often confuse PHVs with taxis, failing to realise that PHVs are not available for immediate hire and that a PHV driver cannot be hailed. So it is important to distinguish between the two types of vehicle. Possible approaches might be:

- a licence condition that prohibits PHVs from displaying any identification at all apart from the local authority licence plate or disc. The licence plate is a helpful indicator of licensed status and, as such, it helps identification if licence plates are displayed on the front as well as the rear of vehicles. However, requiring some additional clearer form of identification can be seen as best practice. This is for two reasons: firstly, to ensure a more positive statement that the vehicle cannot be hired immediately through the driver; and secondly because it is quite reasonable, and in the interests of the travelling public, for a PHV operator to be able to state on the vehicle the contact details for hiring;
- a licence condition which requires a sign on the vehicle in a specified form. This will often be a sign of a specified size and shape which identifies the operator (with a telephone number for bookings) and the local licensing authority, and which also has some words such as 'pre-booked only'. This approach seems the best practice; it identifies the vehicle as private hire and helps to avoid confusion with a taxi, but also gives useful information to the public wishing to make a booking. It is good practice for vehicle identification for PHVs to include the contact details of the operator.
- Another approach, possibly in conjunction with the previous option, is a requirement for a roof-mounted, permanently illuminated sign with words such as 'pre-booked only'. But it can be argued that any roof-mounted sign, however unambiguous its words, is liable to create confusion with a taxi. So roof-mounted signs on PHVs are not seen as best practice.

## Environmental Considerations

25. Local licensing authorities, in discussion with those responsible for environmental health issues, will wish to consider how far their vehicle licensing policies can and should support any local environmental policies that the local authority may have adopted, bearing in mind the need to ensure that the benefits of any policies outweigh the costs (in whatever form). Local authorities may, for example, wish to consider setting vehicle emissions standards for taxis and PHVs. However, local authorities would need to carefully and thoroughly assess the impact of introducing such a policy; for example, the effect on the supply of taxis and PHVs in the area would be an important consideration in deciding the standards, if any, to be set.

## Stretched Limousines

26. Local licensing authorities are sometimes asked to license stretched limousines as PHVs. It is suggested that local authorities should approach such requests on the basis that these vehicles have a legitimate role to play in the private hire trade, meeting a public demand. Consistent with this view licence applications involving use of these limousines should not be automatically rejected (for example just because the vehicles may be left-hand drive). The Department is currently revising its guidance on the licensing arrangements for stretched limousines.

27. Imported stretched limousines are normally checked for compliance with British regulations under the Single Vehicle Approval (SVA) inspection regime, before they are registered. A licensing authority might wish to request sight of the SVA certificate to ensure that the vehicle was tested by VOSA before being registered and licensed (taxed) by DVLA. The SVA test verifies that the converted vehicle is built to certain safety and environmental standards (there are some vehicles that have gained registration without an SVA and these may not comply with British regulations).

28. Stretched limousines which clearly have more than 8 passenger seats should not of course be licensed as PHVs because they are outside the licensing regime for PHVs. However, under some

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circumstances the SVA regime accepts vehicles with space for more than 8 passengers, particularly where the precise number of passenger seats is hard to determine. In these circumstances, if the vehicle has obtained an SVA certificate, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than 8 passengers, bearing in mind that refusal may encourage illegal private hire operation. Authorities should check with local MOT testing stations to find out if the station has the facilities to test such vehicles. If there is difficulty in finding a suitable station, the local enforcement office may be able to advise (contact details on <http://www.vosa.gov.uk/vosa/vosalocations/vosaenforcementoffices.htm>).

## Quantity Restrictions of Taxi Licences outside London

29. The present legal provision on quantity restrictions for taxis outside London is set out in section 16 of the Transport Act 1985. This provides that the grant of a taxi licence may be refused, for the purpose of limiting the number of licensed taxis 'if, but only if, the [local licensing authority] is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet'.

30. Local licensing authorities will be aware that, in the event of a challenge to a decision to refuse a licence, the local authority concerned would have to establish that it had, reasonably, been satisfied that there was no significant unmet demand.

31. Most local licensing authorities do not impose quantity restrictions; the Department regards that as best practice. Where restrictions are imposed, the Department would urge that the matter should be regularly reconsidered. The Department further urges that the issue to be addressed first in each reconsideration is whether the restrictions should continue at all. It is suggested that the matter should be approached in terms of the interests of the travelling public - that is to say, the people who use taxi services. What benefits or disadvantages arise for them as a result of the continuation of controls; and what benefits or disadvantages would result for the public if the controls were removed? Is there evidence that removal of the controls would result in a deterioration in the amount or quality of taxi service provision?

32. In most cases where quantity restrictions are imposed, vehicle licence plates command a premium, often of tens of thousands of pounds. This indicates that there are people who want to enter the taxi market and provide a service to the public, but who are being prevented from doing so by the quantity restrictions. This seems very hard to justify.

33. If a local authority does nonetheless take the view that a quantity restriction can be justified in principle, there remains the question of the level at which it should be set, bearing in mind the need to demonstrate that there is no significant unmet demand. This issue is usually addressed by means of a survey; it will be necessary for the local licensing authority to carry out a survey sufficiently frequently to be able to respond to any challenge to the satisfaction of a court. An interval of three years is commonly regarded as the maximum reasonable period between surveys.

34. As to the conduct of the survey, the Department's letter of 16 June 2004 set out a range of considerations. But key points are:

- **the length of time that would-be customers have to wait at ranks.** However, this alone is an inadequate indicator of demand; also taken into account should be...
- **waiting times for street hailings and for telephone bookings.** But waiting times at ranks or elsewhere do not in themselves satisfactorily resolve the question of unmet demand. It is also desirable to address...
- **latent demand,** for example people who have responded to long waiting times by not even trying to travel by taxi. This can be assessed by surveys of people who do not use taxis, perhaps using stated preference survey techniques.
- **peaked demand.** It is sometimes argued that delays associated only with peaks in demand (such as morning and evening rush hours, or pub closing times) are not 'significant' for the purpose of the Transport Act 1985. The Department does not share that view. Since the peaks in demand are by definition the most popular times for consumers to use taxis, it can be strongly argued that unmet demand at these times should not be ignored. Local authorities might wish to consider when the peaks occur and who is being disadvantaged through restrictions on provision of taxi services.

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- **consultation.** As well as statistical surveys, assessment of quantity restrictions should include consultation with all those concerned, including user groups (which should include groups representing people with disabilities, and people such as students or women), the police, hoteliers, operators of pubs and clubs and visitor attractions, and providers of other transport modes (such as train operators, who want taxis available to take passengers to and from stations);
- **publication.** All the evidence gathered in a survey should be published, together with an explanation of what conclusions have been drawn from it and why. If quantity restrictions are to be continued, their benefits to consumers and the reason for the particular level at which the number is set should be set out.
- **financing of surveys.** It is not good practice for surveys to be paid for by the local taxi trade (except through general revenues from licence fees). To do so can call in question the impartiality and objectivity of the survey process.

35. Quite apart from the requirement of the 1985 Act, the Department's letter of 16 June 2004 asked all local licensing authorities that operate quantity restrictions to review their policy and justify it publicly by 31 March 2005 and at least every three years thereafter. The Department also expects the justification for any policy of quantity restrictions to be included in the five-yearly Local Transport Plan process. A recommended list of questions for local authorities to address when considering quantity controls was attached to the Department's letter. (The questions are listed in Annex A to this Guidance.)

### Taxi Fares

36. Local licensing authorities have the power to set taxi fares for journeys within their area, and most do so. (There is no power to set PHV fares.) Fare scales should be designed with a view to practicality. The Department sees it as good practice to review the fare scales at regular intervals, including any graduation of the fare scale by time of day or day of the week. Authorities may wish to consider adopting a simple formula for deciding on fare revisions as this will increase understanding and improve the transparency of the process. The Department also suggests that in reviewing fares authorities should pay particular regard to the needs of the travelling public, with reference both to what it is reasonable to expect people to pay but also to the need to give taxi drivers sufficient incentive to provide a service when it is needed. There may well be a case for higher fares at times of higher demand.

37. Taxi fares are a maximum, and in principle are open to downward negotiation between passenger and driver. It is not good practice to encourage such negotiations at ranks, or for on-street hailings; there would be risks of confusion and security problems. But local licensing authorities can usefully make it clear that published fares are a maximum, especially in the context of telephone bookings, where the customer benefits from competition. There is more likely to be a choice of taxi operators for telephone bookings, and there is scope for differentiation of services to the customer's advantage (for example, lower fares off-peak or for pensioners).

38. There is a case for allowing any taxi operators who wish to do so to make it clear - perhaps by advertising on the vehicle - that they charge less than the maximum fare; publicity such as '5% below the metered fare' might be an example.

## Drivers

### *Duration of Licences*

39. It is obviously important for safety reasons that drivers should be licensed. But it is not necessarily good practice to require licences to be renewed annually. That can impose an undue burden on drivers and licensing authorities alike. Three years is the legal maximum period and is in general the best approach. One argument against 3-year licences has been that a criminal offence may be committed, and not notified, during the duration of the licence. But this can of course also be the case during the duration of a shorter licence. In relation to this, authorities will wish to note that the Home Office in April 2006 issued revised guidance for police forces on the Notifiable Occupations Scheme. Under this new guidance the police are requested to notify the appropriate local licensing authority of convictions and other relevant information when it comes to their attention that an individual is working as a Taxi or PHV driver. (Further details are contained in Home Office Circular 6/2006. Further information can be obtained from the Criminal Records Section, Safeguarding Vulnerable Persons Team, Police Leadership and Powers Unit, Home Office, Fourth Floor, Peel Building, 2 Marsham Street, London SW1P 4DF; e-mail [Robin.Manson@homeoffice.gsi.gov.uk](mailto:Robin.Manson@homeoffice.gsi.gov.uk))

40. However, an annual licence may be preferred by some drivers. That may be because they have plans to move to a different job or a different area, or because they cannot easily pay the fee for a three-year licence, if it is larger than the fee for an annual one. So it can be good practice to offer drivers the choice of an annual licence or a three-year licence.

### **Acceptance of driving licences from other EU member states**

41. Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 as enacted stated that an applicant for a taxi or private hire vehicle (PHV) driver's licence must have held a full ordinary GB driving licence for at least 12 months in order to be granted a taxi or PHV driver's licence. This requirement has subsequently been amended since the 1976 Act was passed. The Driving Licences (Community Driving Licence) Regulations 1996 (SI 1996 No 1974) amended sections 51 and 59 of the 1976 Act to allow full driving licences issued by EEA states to count towards the qualification requirements for the grant of taxi and PHV driver's licences. Since that time, a number of central and eastern European states have joined the EU and the EEA and the Department take the view that drivers from the Accession States are eligible to acquire a taxi or PHV driver's licence under the 1976 Act if they have held an ordinary driving licence for 12 months which was issued by an acceding State. To complete the picture, the Deregulation (Taxis and Private Hire Vehicles) Order 1998 (SI 1998 No 1946) gave equal recognition to Northern Ireland driving licences for the purposes of taxi and PHV driver licensing under the 1976 Act.

### **Criminal Record Checks**

42. A criminal record check is an important safety measure and is widely required. Taxi and PHV drivers can be subject to an Enhanced Disclosure through the Criminal Records Bureau; this level of disclosure includes details of spent convictions and police cautions. In considering an individual's criminal record, local licensing authorities will want to consider each case on its merits, but they will doubtless take a particularly cautious view of any offences involving violence, and especially sexual attack. In order to achieve consistency, and thus avoid the risk of successful legal challenge, local authorities will doubtless want to have a clear policy for the consideration of criminal records, for example the number of years they will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

43. Local licensing authorities will also want to have a policy on background checks for applicants from elsewhere in the EU and other overseas countries. One approach is to require a certificate of good conduct authenticated by the relevant embassy. The Criminal Records Bureau website ([www.crb.gov.uk](http://www.crb.gov.uk)) gives information about obtaining certificates of good conduct, or similar documents, from a number of countries. More generally, the Home Office's Employers' Helpline

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(0845 010 6677) can be used by licensing staff to obtain general guidance on immigration documentation, although this Helpline is not able to advise on individual cases. The authority can obtain case specific immigration status information, including whether a licensing applicant is permitted to work or details of work restrictions, from the Evidence and Enquiry Unit, Floor 12, Lunar House, Wellesley Road, Croydon CR9 2BY . Further details on the procedures involved can be obtained by contacting the Unit (020 8196 3011).

44. It would seem best practice for Criminal Records Bureau disclosures to be sought when a licence is first applied for and then every three years, even if a licence is renewed annually, provided drivers are obliged to report all new convictions and cautions to the licensing authority.

### Medical Criteria

45. It is clearly good practice for medical checks to be made on each driver before the initial grant of a licence and thereafter for each renewal. It is common for licensing authorities to apply the 'Group 2' medical standards - applied by DVLA to the licensing of lorry and bus drivers - to taxi and PHV drivers. This seems best practice. The Group 2 standards preclude the licensing of drivers with insulin treated diabetes. However, exceptional arrangements do exist for drivers with insulin treated diabetes, who can meet a series of medical criteria, to obtain a licence to drive category C1 vehicles (i.e. 3500-7500 kgs lorries); the position is summarised at Annex B to the Guidance. In the light of the latest guidance from the Secretary of State's Honorary Medical Advisory Panel on Diabetes Mellitus and Driving, it is suggested that best practice is to apply the C1 standards to taxi and PHV drivers with insulin treated diabetes.

### Age Limits

46. It does not seem necessary to set a maximum age limit for drivers provided that regular medical checks are made. Nor do minimum age limits, beyond the statutory periods for holding a full driver licence, seem appropriate. Applicants should be assessed on their merits.



### **Driving Proficiency**

47. Many local authorities rely on the standard car driving licence as evidence of driving proficiency. Others require some further driving test to be taken. Local authorities will want to consider carefully whether this produces benefits which are commensurate with the costs involved for would-be drivers, the costs being in terms of both money and broader obstacles to entry to the trade. However, they will note that the Driving Standards Agency provides a driving assessment specifically designed for taxis.

### **Other training**

48. There may well be advantage in encouraging drivers to obtain one of the nationally-recognised vocational qualifications for the taxi and PHV trades. These will cover customer care, including how best to meet the needs of people with disabilities. More information about these qualifications can be obtained from *GoSkills*, the Sector Skills Council for Passenger Transport. *GoSkills* is working on a project funded by the Department to raise standards in the industry and *GoSkills* can guide and support licensing authorities through its regional network of Business Advisers. Some licensing authorities have already established training initiatives and others are being developed; it is seen as important to do this in consultation with the local taxi and PHV trades. Training can cover customer care, including how best to meet the needs of people with disabilities and other sections of the community, and also topics such as the relevant legislation, road safety, the use of maps and GPS, the handling of emergencies, and how to defuse difficult situations and manage conflict. Authorities may wish to note that nationally recognised qualifications and training programmes sometimes have advantages over purely local arrangements (for example, in that the qualification will be more widely recognised).

Contact details are:

GoSkills, Concorde House, Trinity Park, Solihull, Birmingham, B37 7UQ.

Tel: 0121-635-5520

Fax: 0121-635-5521

Website: [www.goskills.org](http://www.goskills.org)

e-mail: [info@goskills.org](mailto:info@goskills.org)

### **Topographical Knowledge**

49. Taxi drivers need a good working knowledge of the area for which they are licensed, because taxis can be hired immediately, directly with the driver, at ranks or on the street. So most licensing authorities require would-be taxi-drivers to pass a test of local topographical knowledge as a pre-requisite to the first grant of a licence (though the stringency of the test should reflect the complexity or otherwise of the local geography, in accordance with the principle of ensuring that barriers to entry are not unnecessarily high).

50. However, PHVs are not legally available for immediate hiring in the same way as taxis. To hire a PHV the would-be passenger has to go through an operator, so the driver will have an opportunity to check the details of a route before starting a journey. So it may be unnecessarily burdensome to require a would-be PHV driver to pass the same 'knowledge' test as a taxi driver, though it may be thought appropriate to test candidates' ability to read a map and their knowledge of key places such as main roads and railway stations.

### **PHV Operators**

51. The objective in licensing PHV operators is, again, the safety of the public, who will be using operators' premises and vehicles and drivers arranged through them.

### **Criminal Record Checks**

52. PHV operators (as opposed to PHV drivers) are not exceptions to the Rehabilitation of Offenders Act 1974, so Standard or Enhanced disclosures cannot be required as a condition of grant of an operator's licence. But a Basic Disclosure could be seen as appropriate, after such a system has been introduced by the Criminal Records Bureau. No firm date for introduction has yet been set; the Home Office during 2006/07 will be undertaking a new feasibility study in this regard. Overseas applicants may be required to provide a certificate of good conduct from the relevant embassy if they have not been long in this country. Local licensing authorities may want to require a reference, covering for example the applicant's financial record, as well as the checks outlined above.

### **Record Keeping**

53. It is good practice to require operators to keep records of each booking, including the name of the passenger, the destination, the name of the driver, the number of the vehicle and any fare quoted at the time of booking. That will, for example, enable police checks to be made if any mishap should befall a passenger and may also be of use to licensing authorities in enforcement enquiries. It is suggested that 6 months is generally appropriate as the length of time that records should be kept.

### **Insurance**

54. It is appropriate for a licensing authority to check that appropriate public liability insurance has been taken out for premises that are open to the public.

### **Licence Duration**

55. A requirement for annual licence renewal does not seem necessary or appropriate for PHV operators, whose involvement with the public is less direct than a driver (who will be alone with passengers). Indeed, a licence period of five years may well be appropriate in the average case. Although the authority may wish to offer operators the option of a licence for a shorter period if requested.

### **Enforcement**

56. Well-directed enforcement activity by the local licensing authority benefits not only the public but also the responsible people in the taxi and PHV trades. The resources devoted by licensing authorities to enforcement will vary according to local circumstances, including for example any difficulties with touting by unlicensed drivers and vehicles (a problem in some urban areas). Local authorities will also wish to liaise closely with the police.

57. Local licensing authorities often use enforcement staff to check a range of licensed activities (such as market traders) as well as the taxi and PHV trades, to make the best use of staff time. But it is desirable to ensure that taxi and PHV enforcement effort is at least partly directed to the late-night period, when problems such as touting tend most often to arise.

58. Some local licensing authorities employ taxi marshals in busy city centres where there are lots of hirings, again perhaps late at night, to help taxi drivers picking up, and would-be passengers queuing for taxis.

59. As part of enforcement, local licensing authorities will often make spot checks, which can lead to their suspending or revoking licences. They will wish to consider carefully which power should best be used for this purpose. They will note, among other things, that section 60 of the Local Government (Miscellaneous Provisions) Act 1976 provides a right of appeal for the licence-holder, whereas section 68, which is also sometimes used, does not; this can complicate any challenge by the licence-holder.

### **Taxi Zones**

60. The areas of some local licensing authorities are divided into two or more zones for taxi licensing purposes. Drivers may be licensed to ply for hire in one zone only. Zones may exist for historical reasons, perhaps because of local authority boundary changes.

61. The Department recommends the abolition of zones. That is chiefly for the benefit of the travelling public. Zoning tends to diminish the supply of taxis and the scope for customer choice - for example, if fifty taxis were licensed overall by a local authority, but with only twenty five of them entitled to ply for hire in each of two zones. It can be confusing and frustrating for people wishing to hire a taxi to find that a vehicle licensed by the relevant local authority is nonetheless unable to pick them up (unless pre-booked) because they are in the wrong part of the local authority area. Abolition of zones can also reduce costs for the local authority, for example through simpler administration and enforcement. It can also promote fuel efficiency, because taxis can pick up a passenger anywhere in the local authority area, rather than having to return empty to their licensed zone after dropping a passenger in another zone.

62. It should be noted that the Government intends to make a Regulatory Reform Order which will remove the need for the Secretary of State to approve amalgamation resolutions made by local licensing authorities. It is intended that the RRO should be introduced for Parliamentary scrutiny during 2006.

### **Flexible Transport Services**

63. It is possible for taxis and PHVs to provide flexible transport services in a number of different ways. Such services can play a valuable role in meeting a range of transport needs, especially in rural areas - though potentially in many other places as well. In recent years there has been a significant increase in the provision of flexible services, due partly to the availability of Rural Bus Subsidy Grant and Rural Bus Challenge Support from the Department.

64. The Department encourages local licensing authorities, as a matter of best practice, to play their part in promoting flexible services, so as to increase the availability of transport to the travelling public. This can be done partly by drawing the possibilities to the attention of taxi and PHV trade. It

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also should be borne in mind that vehicles with a higher seating capacity than the vehicles typically licensed as taxis (for example those with 6, 7 or 8 passenger seats) may be used for flexible services and should be considered for licensing in this context.

65. The main legal provisions under which flexible services can be operated are:

- **Shared taxis and PHVs - advance bookings (section 11, Transport Act 1985):** licensed taxis and PHVs can provide a service at separate fares for up to eight passengers sharing the vehicle. The operator takes the initiative to match up passengers who book in advance and agree to share the vehicle at separate fares (lower than for a single hiring). An example could be passengers being picked up at home to go to a shopping centre, or returning from the shops to their homes. The operator benefits through increased passenger loadings and total revenues.
- **Shared taxis - immediate hirings (section 10, Transport Act 1985):** such a scheme is at the initiative of the local licensing authority, which can set up schemes whereby licensed taxis (not PHVs) can be hired at separate fares by up to eight people from ranks or other places that have been designated by the authority. (The authority is required to set up such a scheme if holders of 10% or more of the taxi licences in the area ask for one.) The passengers pay only part of the metered fare, for example in going home after a trip to the local town, and without pre-booking, but the driver receives more than the metered fare.
- **Taxibuses (section 12, Transport Act 1985):** owners of licensed taxis can apply to the Traffic Commissioner for a 'restricted public service vehicle (PSV) operator licence'. The taxi owner can then use the vehicle to run a bus service for up to eight passengers. The route must be registered with the Traffic Commissioner and must have at least one stopping place in the area of the local authority that licensed the taxi, though it can go beyond it. The bus service will be eligible for Bus Service Operators Grant (subject to certain conditions) and taxibuses can be used for local authority subsidised bus services. The travelling public have another transport opportunity opened for them, and taxi owners have another business opportunity.

66. The Department is very keen to encourage the use of these types of services. More details can be found in the Department's publication 'Flexible Transport Services' (available from [dft@twoten.press.net](mailto:dft@twoten.press.net)). The document itself can be accessed at: [www.dft.gov.uk/stellent/groups/dft\\_localtrans/documents/page/dft\\_localtrans\\_504004.hcsp](http://www.dft.gov.uk/stellent/groups/dft_localtrans/documents/page/dft_localtrans_504004.hcsp).

### Local Transport Plans

67. The Transport Act 2000 requires most local transport authorities in England (not London) to produce and maintain a Local Transport Plan (LTP), having regard to any guidance issued by the Secretary of State. The latest guidance was published in December 2004 asking for a provisional LTP by 29 July 2005 and a final one by 31 March 2006. LTPs set out the authority's local transport strategies and policies, and an implementation programme over a five year period. Authorities report each year on their delivery of policies and programmes in Annual Progress Reports.

68. All modes of transport including taxi and PHV services have a valuable part to play in overall transport provision, and so local licensing authorities have an input to make to the LTP process. The key policy themes for such services could be availability and accessibility. LTP input could include statements of policy on:

- quantity controls, if any, and plans for their review;
- licensing conditions, with a view to safety but also to good supply of taxi and PHV services;
- fares;
- on-street availability, especially through provision of taxi ranks;
- vehicle accessibility for people with disabilities;

## Taxi and Private Hire Vehicle Licensing: Best Practice Guidance

- encouragement of flexible services.

69. There should also be a statement of changes in policy since the last LTP and changes that are intended. It would be useful to provide statistics of changes in the number of licences for vehicles, drivers and operators, so that trends in availability can be identified.

## **Annex A: Taxi and Private Hire Vehicle Licensing: Best Practice Guidance**

### **Useful questions when assessing quantity controls of taxi licences**

- Have you considered the Government's view that quantity controls should be removed unless a specific case that such controls benefit the consumer can be made?

### **Questions relating to the policy of controlling numbers**

- Have you recently reviewed the need for your policy of quantity controls?
- What form did the review of your policy of quantity controls take?
- Who was involved in the review?
- What decision was reached about retaining or removing quantity controls?
- Are you satisfied that your policy justifies restricting entry to the trade?
- Are you satisfied that quantity controls do not:
  - reduce the availability of taxis;
  - increase waiting times for consumers;
  - reduce choice and safety for consumers?
- What special circumstances justify retention of quantity controls?
- How does your policy benefit consumers, particularly in remote rural areas?
- How does your policy benefit the trade?
- If you have a local accessibility policy, how does this fit with restricting taxi licences?

### **Questions relating to setting the number of taxi licences**

- When last did you assess unmet demand?
- How is your taxi limit assessed?
- Have you considered latent demand, ie potential consumers who would use taxis if more were available, but currently do not?
- Are you satisfied that your limit is set at the correct level?
- How does the need for adequate taxi ranks affect your policy of quantity controls?

### **Questions relating to consultation and other public transport service provision**

- When consulting, have you included etc
  - all those working in the market;
  - consumer and passenger (including disabled) groups;
  - groups which represent those passengers with special needs;
  - local interest groups, eg hospitals or visitor attractions;
  - the police;

## **Taxi and Private Hire Vehicle Licensing: Best Practice Guidance**

- a wide range of transport stakeholders eg rail/bus/coach providers and traffic managers?
- Do you receive representations about taxi availability?
- What is the level of service currently available to consumers (including other public transport modes)?

## **Annex B: Taxi and Private Hire Vehicle Licensing: Best Practice Guidance**

### **Assessing applicants for a taxi or PHV driver licence in accordance with C1 standard**

*Exceptional circumstances under which DVLA will consider granting licences for vehicles over 3.5 tonnes or with more than 8 passenger seats.*

Insulin treated diabetes is a legal bar to driving these vehicles. The exceptional arrangements that were introduced in September 1998 were only in respect of drivers who were employed to drive small lorries between 3.5 tonnes and 7.5 tonnes (category C1). The arrangements mean that those with good diabetic control and who have no significant complications can be treated as "exceptional cases" and may have their application for a licence for category C1 considered. The criteria are

- To have been taking insulin for at least 4 weeks;
- Not to have suffered an episode of hypoglycaemia requiring the assistance of another person whilst driving in the last 12 months;
- To attend an examination by a hospital consultant specialising in the treatment of diabetes at intervals of not more than 12 months and to provide a report from such a consultant in support of the application which confirms a history of responsible diabetic control with a minimal risk of incapacity due to hypoglycaemia;
- To provide evidence of at least twice daily blood glucose monitoring at times when C1 vehicles are being driven (those that have not held C1 entitlement in the preceding 12 months may provide evidence of blood glucose monitoring while driving other vehicles);
- To have no other condition which would render the driver a danger when driving C1 vehicles; and
- To sign an undertaking to comply with the directions of the doctor(s) treating the diabetes and to report immediately to DVLA any significant change in condition.



Tel: 01204 363663  
Conveyancing 01204 529191  
Fax: 01204 389398  
lhr: 07774 713333  
DX: 24123  
Email: need.advice@allansons.com

Messrs. Illyas & Crompton.  
Chorley Hackney Carriage Assn..

For Collection

25<sup>th</sup> June, 2008

Our ref: RBA/BNMM8216

Dear Yacub & Brian,

I write with reference to our various recent telephone conversations over the meeting which you say has been called by the Licensing officer for the 30<sup>th</sup> when I will be away. I am still not entirely sure the purpose of the meeting although it does not seem to be a reconvening of the committee meeting from the 4<sup>th</sup> June, 2008 which had the item on the agenda which troubled you and your members so much.

As I advised following our meeting I drafted a written response ostensibly on behalf of your members because in speaking to the Council officers it seemed there is a strictly limited speech time at committee meeting and there was too much to say in the time allotted.

My submissions which are attached to this letter resulted in the agenda item being pulled from the meeting and presumably will feature in a later meeting of the full committee. It concerns me a little that at the meeting called for the 30<sup>th</sup> the Chair and Vice-Chair of the committee will be in attendance. Their role and the reason for that is unclear to me and it potentially compromises their position at the full committee meeting if they have been involved in discussions/consultations between the council officers and members of the trade. This is a point to be clarified at the outset of any meeting.

It might well be the case that the meeting is a consultation exercise in which the trades' views will be listened to and hopefully lead to changes in the council's approach. That may lead to an acceptable compromise being reached which would mean an agreed approach could go forward to the next full committee meeting. If that were to be the result it would be a good thing and have the benefits of the trade and council working in harmony for a change to the greater good of all.

You need to bear in mind that there are others within the trade whom your organisation does not represent and they too should be part of the consultation procedure so you should check who else has been invited to attend as you will not be able to speak on their behalf, nor reach any agreement binding them.

**Partners:** Roger D. Allanson LL.B. - Solicitor - Criminal, Motoring, Tax-Law, Family and Children Cases and Personal Injury Litigation (e-mail: roger@allansons.com)  
Member of Association of Personal Injury Lawyers and Law Society Children Panel and Police Station and Court Duty Solicitor Scheme. Commissioner for Oaths  
**Mohamed Patel LL.B.** - Solicitor - Personal Injury, Criminal and Motoring Cases (e-mail: m.patel@allansons.com)  
Member of Law Society Police Station and Court Duty Solicitor Scheme. Commission for Oaths

**Executives:** Rodney D. Fray First L.Ex. - Conveyancing With & Probate (e-mail: r.fray@allansons.com)  
Karen Hudson - Conveyancing (e-mail: karen@bouchers.co.uk)

**Consultant:** Paul Boucher - Solicitor - Conveyancing and Probate Cases

**Paralegals:** Julie Salmon - Conveyancing - Ryan J. Booth - Conveyancing and Criminal Cases

**Management Consultant:** Prof. A. Sheriff M.B.A.

Also as Bouchers with Allansons at  
106/108 Reddish Lane, Gorton, Manchester M18 7JL (0161 220 8484)

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25, Chorley Old Road,  
Bolton, Lancashire,  
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25, Chorley Old Road,  
Bolton, Lancashire,  
BL1 3AD.



If you want me to be present at the meeting it will have to be re-arranged for when I get back please avoid the following dates:-

1-8,10,14,15,21,29, & 31 July  
1,8,26-29 August, 2008.

Thank you for the £350 on account of costs.

When you have considered my submissions please let me know what you want me to do next if anything.

Yours sincerely,  
Roger B. Allanson

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### Submissions on behalf of Chorley Hackney Carriage Association

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1. The trade and the guys with the Hackney Carriage Association and presumably Private Hire Vehicle Drivers and Operators share with Chorley Borough Council the obligation to protect the public by providing a safe form of transportation for the public to use and accept the Local Authorities obligation to test the ability and fitness of the drivers and their vehicles. However the report of the Corporate Director of Governance states that its priority is to ensure Chorley Borough Council [CBC] is a performing organisation.
2. What evidence is there that it is not currently performing?
3. If there is evidence of none performance surely the starting point is to apply its enforcement powers. Where those might be insufficient and that would only be known after testing of those powers in action by for example
  - Calculating the number of vehicles that miss or fail tests but continue to work
  - Working out the number of enforcement operations that have taken place over a period of time and analysing the results
  - Analysing the results of visits to Operators with a view to compliance of regulation
  - Considering the disciplinary hearings that have taken place and their reasons and outcomes
  - Considering the number of warning letters suspensions and revocations that have taken place and the reasons for them
  - The number of failures of the system causing any problems
  - The number of mystery shoppers used to test the testers and any outcomes