





**Brighton & Hove  
City Council**

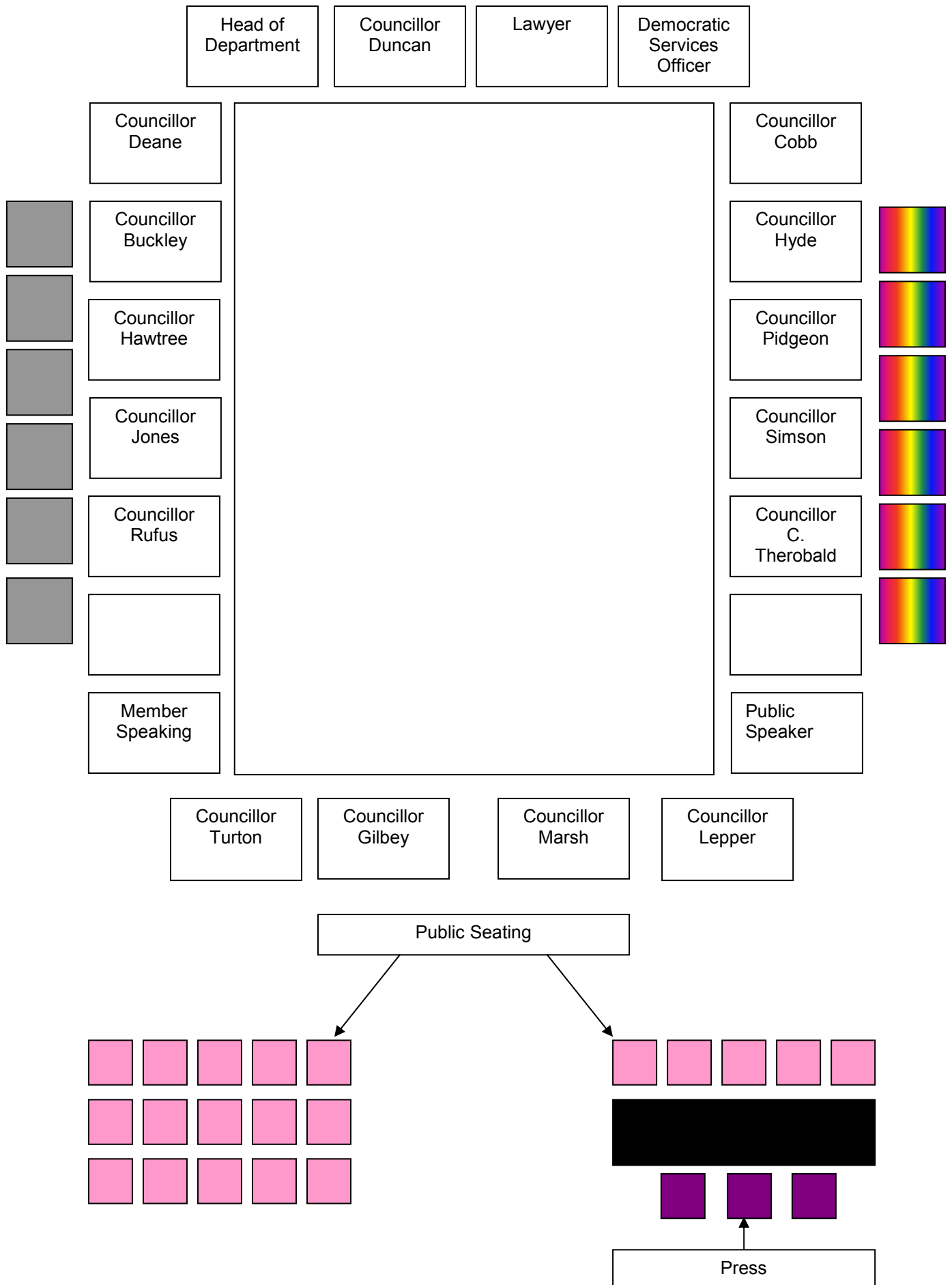
# Licensing Committee

## (Non-Licensing Act 2003 Functions)

Title:	<b>Licensing Committee (Non Licensing Act 2003 Functions)</b>
Date:	<b>28 June 2012</b>
Time:	<b>3.00pm or at the conclusion of the preceding (Licensing Act 2003 Functions) meeting</b>
Venue	<b>Council Chamber, Hove Town Hall</b>
Members:	<b>Councillors:</b> Duncan (Chair), Deane (Deputy Chair), Cobb (Opposition Spokesperson), Lepper (Opposition Spokesperson), Buckley, Gilbey, Hawtree, Hyde, Jones, Marsh, Pidgeon, Rufus, Simson, C Theobald and Turton
Contact:	<b>Penny Jennings</b> Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk

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	An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter and infra red hearing aids are available for use during the meeting. If you require any further information or assistance, please contact the receptionist on arrival.
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# Democratic Services: Meeting Layout



## AGENDA

### 1. PROCEDURAL BUSINESS

- (a) Declaration of Substitutes - Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.
- (b) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (c) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

*NOTE: Any item appearing in Part 2 of the Agenda states in its heading either that it is confidential or the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.*

*A list and description of the categories of exempt information is available for public inspection at Brighton and Hove Town Halls.*

### 2. MINUTES OF THE PREVIOUS MEETING

1 - 6

Minutes of the meeting held on 8 March 2012 (copy attached)

### 3. CHAIR'S COMMUNICATIONS

### 4. PUBLIC INVOLVEMENT

To consider the following matters raised by members of the public:

- (a) **Petitions:** to receive any petitions presented by members of the public to the full Council or at the meeting itself.
- (b) **Written Questions:** to receive any questions submitted by the due date of 12 noon on the [22 June 2012].
- (c) **Deputations:** to receive any deputations submitted by the due date of 12 noon on the [22 June 2012].

### 5. ISSUES RAISED BY COUNCILLORS

To consider the following matters raised by Councillors:

## LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

- (a) **Petitions:** to receive any petitions submitted to the full Council or at the meeting itself;
- (b) **Written Questions:** to consider any written questions;
- (c) **Letters:** to consider any letters;
- (d) **Notices of Motion:** to consider any Notices of Motion.

### 6. HACKNEY CARRIAGE FARE REVIEW 7 - 16

Report of Head of Regulatory Services, Planning and Public Protection  
(copy attached)

*Contact Officer:* Martin Seymour *Tel:* 296659  
*Ward Affected:* All Wards

### 7. HACKNEY CARRIAGE AGE LIMITS 17 - 20

Report of Head of Regulatory Services, Planning and Public Protection  
(copy attached)

*Contact Officer:* Martin Seymour *Tel:* 296659  
*Ward Affected:* All Wards

### 8. CONSULTATION ON REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES 21 - 36

Report of Head of Regulatory Services, Planning and Public Protection  
(copy attached)

*Contact Officer:* Jean Cranford *Tel:* 29-2550  
*Ward Affected:* All Wards

### 9. ITEMS TO GO FORWARD TO COUNCIL

To consider items to be submitted to the 19 July 2012 Council meeting for information.

In accordance with Procedural Rule 24.3a the Committee may determine that any item is to be included in its report to Council. In addition each Minority Group may specify one further item to be included by notifying the Chief Executive by 10.00am on 6 July 2012.

## LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fifth working day before the meeting.

Agendas and minutes are published on the council's website [www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk). Agendas are available to view five working days prior to the meeting date.

Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Penny Jennings, (01273 291065, email [penny.jennings@brighton-hove.gov.uk](mailto:penny.jennings@brighton-hove.gov.uk)) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk)

Date of Publication - Wednesday, 20 June 2012



**LICENSING COMMITTEE  
(NON LICENSING ACT  
2003 FUNCTIONS)**

**Agenda Item 2**

Brighton & Hove City Council

**BRIGHTON & HOVE CITY COUNCIL**

**LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)**

**3.30PM 8 MARCH 2012**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Deane (Chair), Sykes (Deputy Chair), Cobb, Duncan, Gilbey, Hyde, A Kitcat, Lepper, Marsh, Pidgeon, Rufus, Simson, C Theobald and West

**Apologies:** Councillor Turton

**PART ONE**

**23. PROCEDURAL BUSINESS**

**23a Declaration of Substitutes**

23.1 There were none.

**23b Declarations of Interest**

23.2 There were none.

**23c Exclusion of the Press and Public**

23.3 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Committee considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I of the Act).

**23.4 RESOLVED** - That the press and public be not excluded / excluded from the meeting during consideration of any item on the agenda.

**24. MINUTES OF THE PREVIOUS MEETING**

- 24.1 **RESOLVED** – That the minutes of the Licensing Committee (Non Licensing Act 2003 Functions) Meeting held on 17 November 2011 be agreed and signed by the Chair as a correct record.

## 25. CHAIRMAN'S COMMUNICATIONS

### Hackney Carriage and Private Hire Vehicles

#### Suspensions and Revocations

- 25.1 The Chair reported that since the previous Committee meeting officers in the Hackney Carriage Office had suspended one driver and refused another on medical grounds. In addition, one driver had been suspended pending the outcome of a court case and another had been given a formal warning which would remain on their file for five years.

#### Other

- 25.2 The Brighton and Hove Taxi Forum had requested Officers write to the Home Office to request that ministers review the level of CRB check that was permitted by law to check on taxi drivers. The Home Office had however issued a Press Release confirming the Minister's intention to regulate to ensure that all taxi and private hire driver applicants and licensees would be subject to an enhanced level of CRB disclosure to enable Licensing Authorities to check that applicants were not barred from working with children or vulnerable adults. Officers had now resumed undertaking enhanced checks on drivers.
- 25.3 **RESOLVED** – That the position be noted.

## 26. CALLOVER

- 26.1 **RESOLVED** – That all items be reserved for discussion.

## 27. PUBLIC QUESTIONS

- 27.1 There were none.

## 28. PETITIONS

- 28.1 The Chair explained that a petition had been received following publication of the agenda but by the due deadline. Mr Funnell presented the following petition containing 12 signatures:

"We the undersigned wish you to consider an exemption for us with regard to the mandatory installation of CCTV into our private hire vehicles for the following reasons:

As sole operators all of our work is booked directly to us, as individuals, and not through third parties, agents or taxi companies.

Our work is pre booked and the clients are known to us because we have given them first class service over many years.



We already have exemption certificates from displaying licence plates, door and roof signs and have no meters, two way radio or data units fitted to our vehicles. As a result our cars cannot be mistaken as taxis or private hire vehicles connected to a circuit.

By putting CCTV in our cars with the accompanying signage the private chauffeur car image with the discreet comfort that our clients now enjoy will be spoiled with our cars seeming like taxis. Many of our clients are high ranking American Express personnel, local celebrities and top business executives and could well choose vehicles that do not have CCTV installed.

Chauffeur cars from surrounding districts will have a very unfair advantage and we fear a loss of business as a result.

To grant us exemption from installing CCTV into our chauffeur cars would be merely an extension of the existing exemptions of displaying licence plates etc.

In closing we would also like to point out that in the House of Commons Safety Debate on 29 February the Parliamentary Secretary of State for Transport, Norman Baker MP, answered a question raised, on CCTV for taxi drivers as follows: In querying the Department of Transport's stance on the matter he suggested that the ultimate responsibility of unit fitting should rest with the individual drivers, with guidance from local authorities."

- 28.2 Mr Funnell also had the opportunity to amplify on his petition for up to 3 minutes and in doing so he referred to the recent decision of Oxford City Council wef 1 April 2012 which had given private hire drivers acting as chauffeurs exemption from the requirement to have CCTV apparatus fitted.
- 23.3 The Chair, Councillor Deane thanked Mr Funnell for his petition, the contents of which were noted. It was explained that the decision that CCTV equipment should be installed was agreed policy, the Committee were not in a position to grant either a blanket, or individual exemptions at that afternoon's meeting. The Chair stated that she was recommending therefore that a further report be brought back to the Committee in 6 months time (2 Committee cycles) detailing the impact of the installation of CCTV in the light of operating experience.
- 23.4 Councillor Simson expressed concern in respect of the timescale stated, in that any drivers whose licence required renewal after 1 April 2012 but prior to the Committee receiving the report referred to would be required to install CCTV in any event.
- 23.5 The Head of Regulatory Services explained that these proposals which were agreed Committee policy and had been widely consulted and properly upon prior to implementation, operators had received notification of these changes, no concerns or dissent had been voiced until now, CCTV equipment had already been fitted to a number of hackney carriages and private hire vehicles operating in the city. Following the original Committee decision, the Committee had decided to grant a further 12 month lead in period to expire on 31 March 2012.

- 23.6 In answer to further questions raised by Councillor Simson and concerns raised by Councillor Mrs Theobald, The Head of Regulatory Services explained that in view of the amount of work involved it would not realistically be possible to bring a report back to the June meeting of the Committee (date to be confirmed).
- 23.7 Councillors Cobb and Marsh sought clarification regarding how those operating as chauffeurs were classified for the purposes of legislation and it was confirmed that they were treated as private hire drivers and were not categorized separately.
- 23.8 **RESOLVED** – That that the contents of the petition be received and noted and that a further report be brought to Committee in 6 months (2 cycles) time setting out the position in the light operating experience in relation to the installation of CCTV in Hackney Carriages and private hire vehicles.

## 29. **EXTRACT FROM ENVIRONMENT AND COMMUNITY SAFETY OVERVIEW AND SCRUTINY COMMITTEE MEETING:TAXI LICENSING**

- 29.1 The Committee received an extract from the meeting of the Environment and Community Safety Overview and Scrutiny Committee meeting held on 23 January 2012.
- 29.2 The Head of Environmental Health and Licensing stated that the Scrutiny Committee had been informed that there had been significant developments since the original request for scrutiny had been considered in September 2011 and had considered these in concert with the concerns raised by Geraldine Des Moulins of the Fed Centre for Independent Living. After full discussion and a vote Members had not agreed to a scrutiny review.
- 29.3 **RESOLVED** – That the content of the minutes be received and noted.

## 30. **EQUALITIES ACTION PLAN UPDATE**

- 30.1 The Committee considered a report of the Head of Planning and Public Protection providing an update on the progress of the Equalities Action Plan.
- 30.2 It was explained that following consideration of a report by the Committee in September 2010 on the Equalities Review which had taken place an Action Plan had been developed which had been updated on an on-going basis since that time. The current version was included as Appendix 1 to the report. Since approval of the original report by Committee the Government's Transport Committee had published its Seventh Special Report which had included recommendations to amend Hackney Carriage and Private Hire legislation (The Road to Reform). The Government's response to that report was included at Appendix 2. At the same time the Law Commission had announced that it was also looking at updating taxi and private hire legislation, a summary of those changes was included at Appendix 3 to the report.
- 30.3 **RESOLVED** – That the Committee endorses progress made including future actions proposed to concentrate on the Significant Unmet Demand Survey.

## 31. **ITEMS TO GO FORWARD TO COUNCIL**

31.1 There were none.

The meeting concluded at 4.40pm

Signed

Chairman

Dated this

day of



# LICENSING COMMITTEE (NON LICENSING ACT 2003) FUNCTIONS)

## Agenda Item 6

Brighton & Hove City Council

**Subject:** Hackney Carriage Fare Review  
**Date of Meeting:** 28 June 2012  
**Report of:** *Head of Regulatory Services Planning and Public Protection*  
**Contact Officer:** Name: *Martin Seymour* Tel: 29-6659  
E-mail: Martin.seymour@brighton-hove.gov.uk  
**Wards Affected:** All

### 1. SUMMARY AND POLICY CONTEXT:

To seek the Committee's recommendation and authority to advertise proposed fare increases following the hackney carriage trade's request for an increase in fares.

### 2. RECOMMENDATIONS:

- 2.1 That Committee recommends the proposed fare increases and authorises the Head of Regulatory Services, Planning and Public Protection to advertise the proposed variation in fares, and invite any objections in accordance with the legal requirements.
- 2.2 Agree that if no objections are made, or if any objections which are made are withdrawn, the varied table of fares will come into force in accordance with the statutory scheme.
- 2.3 Reconsider the matter at the next meeting of this Committee if valid objections are made but not withdrawn. As there are strict legal timescales relating to fare reviews a special meeting of this Committee may be required.

### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The council may fix the rates for hackney carriage fares within the district as well as time and distance and all other charges in connection with the hire of a vehicle or with the arrangements for hire of a vehicle to be paid in respect of the hire of a hackney carriage. The council does not have the power to set private hire vehicle fares but historically the local operators

follow the hackney carriage tariffs set by the council and meters are sealed by officers. It is council policy to use a formula to establish the highest rate of basic fares it will consider. The maximum fare that the formula would allow is £2.33 pence per mile. (As of April 2012). Any additions are negotiated separately.

- 3.2 Applications for hackney carriage fare increases are made through the Taxi Forum in accordance with the agreed formula approved by the Council. If the general consensus of the trade is in agreement with a fare increase, representatives of the trade will be called to a meeting to discuss any proposals with officers of the Council and the lead councilor of the licensing committee who will then present any proposal agreed by that meeting to the next available meeting of the advisory committee of the Council for their consideration and recommendation to the cabinet member for environment.
- 3.3 The formula is a mixture of independent figures for average earnings, for vehicle standing charges and running costs and for vehicle insurance premiums. The figures for standing charges and running costs are produced annually by the AA. They are based upon engine size and new vehicle costs for petrol cars and diesel cars. An average of the two is used to calculate running costs to reflect the mixed nature of the city's taxi fleet.
- 3.4 For the purposes of the fare formula used for this report the middle price band of £16,000 to £20,000 for petrol cars and £17,000 to £20,000 for diesel cars has been used to ascertain vehicle-running costs.
- 3.5 The last hackney carriage fare increase occurred in August 2011. The hackney carriage trade now seeks a further increase.
- 3.6 Justification by the trade for an increase in fares is that there has been a significant rise in fuel prices.
- 3.7 The proposal from the trade is for a 20p increase to the normal initial fares in tariff 1 and 2.
- 3.8 Appendix A Current tariff card.
- 3.9 Appendix B Proposed tariff card.
- 3.10 Appendix C % Change Sheet

#### **4. CONSULTATION**

- 4.1 The subject of the fare review is a constant agenda item at the council's hackney carriage and private hire consultation forum where all members of

that forum are free to express their opinions. The forum members have delegated negotiations to selected representatives.

4.2 The procedure for presenting the trade's request for a review has been followed. This involves the trade's representatives making representations to the chair of the Licensing Committee (non Licensing Act 2003) and officers. The trade's representatives accept the recommendations as reasonable.

4.3 A meeting with the trade representatives, council officers and the chairman Licensing Committee (non Licensing Act 2003) was held on the 16<sup>th</sup> May 2012 where a proposal was agreed in principle to go to the advisory committee.

## **5. FINANCIAL & OTHER IMPLICATIONS:**

### **5.1 Financial Implications:**

The cost of advertising the proposed fare increases will be met from the existing hackney carriage revenue budget. The fare levels are used by the trade, and are not an income stream to the council.

Finance Officer Consulted: Karen Brookshaw

Date: 22 May 2012

### **5.2 Legal Implications:**

The power to fix fares for hackney carriages is provided by Section 65 of the Local Government (Miscellaneous Provisions) Act 1976. The procedure is set out in the body of the report.

Lawyer Consulted: Louise Hanrahan Date: 17 May 2012

### **5.3 Sustainability Implications:**

The role of the taxi trade is included in the Local Transport Plan, which identifies it as a key element in providing sustainable transport choices. It creates important links in the transport network to other forms of sustainable transport providing a seamless connection. It will contribute to three of the government's four shared transport priorities – reducing congestion, improving air quality and accessibility. Use of taxis for school transport, licensed vehicles using bus lanes, locating ranks at railway stations and the city coach station, approved use of liquid petroleum gas all contribute to reducing congestion and moving passengers quickly.

### **5.4 Crime & Disorder Implications:**

Sufficient late night transport to reduce public place violent crime is recognised in the community safety, crime reduction and drugs strategy..

5.5 Risk and Opportunity Management Implications:

The transport industry should be safe, profitable and be a positive experience for residents and visitors.

5.6 Corporate / Citywide Implications:

Tourism needs to provide a warm welcome to visitors and the tourism strategy depends upon effective partnership with transport operators particularly to achieve safe late night dispersal for the night time economy.

**SUPPORTING DOCUMENTATION**

**Appendices: A** Current tariff card.

**Appendices: B** Proposed tariff card.

**Appendices: C** % Change Sheet



**BRIGHTON & HOVE CITY COUNCIL  
MAXIMUM HACKNEY CARRIAGE FARES**

**Section 65 of the Local Government (Miscellaneous Provisions) Act 1976**

The fares apply to all hiring's within Brighton & Hove City. Journeys ending outside the city area may not exceed the authorised metered maximum fare unless a **prior contract** is made with the driver at the time of hiring.

**THE FARE YOU SHOULD PAY ALONG WITH THE RELEVANT TARIFF CODE WILL BE SHOWN AUTOMATICALLY ON THE TAXIMETER.**

**ONLY EXTRA CHARGES MARKED \*\* MAY BE ADDED TO THE METER BY THE DRIVER.**

<b>CHARGES</b>	<b>TARIFF 1</b>	<b>TARIFF 2</b>	<b>TARIFF 3</b>	<b>TARIFF 4</b>	<b>TARIFF 5</b>
	<b>Normal Fare</b> - Applies to all hiring's except those mentioned in tariffs 2,3,4,5,6,7,8,9 &10	<b>Late Night</b> each day between the hours of 9pm and 6am, other than under tariff 3. <b>Sundays</b> – between the hours of 6am and 9pm. <b>Bank or Public Holiday</b> to 12 midnight excluding the times covered by Christmas and new year extra charge	<b>Late Night</b> – each Friday Night and Saturday night only between the hours of 12 midnight and 6am the following day	<b>Christmas Day &amp; Boxing Day</b> - between 9pm 24 December and 6am 27 December. <b>New Year</b> - between 6am and 10am 1 <sup>st</sup> January	<b>New Year</b> -between 9pm 31 December and 6am 1 January
Initial hire not exceeding 640 yards or 2 minutes 24 seconds of waiting time or a combination of both time and distance.	<b>£2.60</b>	<b>£3.60</b>	<b>£4.40</b>	<b>£3.90</b>	<b>£5.20</b>
Each additional 160 yards or part thereof, or 36 seconds of waiting time or part thereof, or a combination of both time and distance.	<b>20p</b>	<b>20p</b>	<b>20p</b>	<b>30p</b>	<b>40p</b>

**For Journeys with 5 to 8 passengers the following tariffs may apply**

<b>CHARGES</b>	<b>TARIFF 6</b>	<b>TARIFF 7</b>	<b>TARIFF 8</b>	<b>TARIFF 9</b>	<b>TARIFF 10</b>
	<b>Normal Fare</b> Applies to all hiring's except those mentioned in tariffs, 7,8,9 &10	<b>Late Night</b> each day between the hours of 9pm and 6am, other than under tariff 3. <b>Sundays</b> – between the hours of 6am and 9pm. <b>Bank or Public Holiday</b> to 12 midnight excluding the times covered by Christmas and new year extra charge	<b>Late Night</b> – each Friday Night and Saturday night only between the hours of 12 midnight and 6am the following day	<b>Christmas Day &amp; Boxing Day</b> – between 9pm 24 December and 6am 27 December. <b>New Year</b> – between 6am and 10am 1 <sup>st</sup> January	<b>New Year</b> -between 9pm 31 December and 6am 1 January
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Each additional 160 yards or part thereof, or 36 seconds of waiting time or part thereof, or a combination of both time and distance.	<b>30p</b>	<b>30p</b>	<b>30p</b>	<b>45p</b>	<b>60p</b>

<b>Extra Charges – that may be added to the metered fare by the driver</b>	
<b>**Fouling Charge</b>  **Booking Fee for telephone and pre-booked hiring's  **The driver may charge any road charges or toll's where applicable (this must be agreed with the customer before hire commences)	<b>**£50.00**</b> <b>**20p**</b>

The maximum number of persons this vehicle is licensed to carry includes children of any age.  
Payment for out of city journeys may be requested by the driver in advance of the journey.  
A person who hires this vehicle but makes off without paying the fare in full commits an offence.  
An operator's account administration charges, including VAT at the current rate, agreed by prior contract, may be charged separately and if charged will form part of the fare for the purpose of any legislation.

**Theses charges cannot be added by the driver to the fare shown on the taximeter.**

**Any COMPLAINTS should be made in writing and sent to the Hackney Carriage Office, Hove Town Hall, Norton Road, Hove, BN3 3BQ or email to [hco@brighton-hove.gov.uk](mailto:hco@brighton-hove.gov.uk)**

**BRIGHTON & HOVE CITY COUNCIL  
MAXIMUM HACKNEY CARRIAGE FARES**

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Each additional 160 yards or part thereof, or 36 seconds of waiting time or part thereof, or a combination of both time and distance.	<b>30p</b>	<b>30p</b>	<b>30p</b>	<b>45p</b>	<b>60p</b>

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**Agreed by Committee June 2011**

<b>Up to yds</b>	<b>Current Fare August 2011</b>	<b>Proposed Fare</b>	<b>% increase</b>
640	2.6	2.8	7.7
800	2.8	3	7.1
960	3	3.2	6.7
1120	3.2	3.4	6.2
1280	3.4	3.6	5.9
1440	3.6	3.8	5.6
1600	3.8	4	5.3
1 Mile	4	4.2	5.0
2 Miles	6.2	6.4	3.2
3 Miles	8.4	8.6	2.4
4 Miles	10.6	10.8	1.9
5 Miles	12.8	13	1.6
6 Miles	15	15.2	1.3
7 Miles	17.2	17.4	1.2
8 Miles	19.4	19.6	1.0
9 Miles	21.6	21.8	0.9
10 Miles	23.8	24	0.8
11 Miles	26	26.2	0.8
12 Miles	28.2	28.4	0.7
13 Miles	30.4	30.6	0.7
14 Miles	32.6	32.8	0.6
15 Miles	34.8	35	0.6
16 Miles	37	37.2	0.5
17 Miles	39.2	39.4	0.5
18 Miles	41.4	41.6	0.5
19 Miles	43.6	43.8	0.5
20 Miles	45.8	46	0.4

**Night Tarriff**

<b>Up to yds</b>	<b>Current Fare August 2011</b>	<b>Proposed Fare</b>	<b>% increase</b>
640	3.6	3.8	5.6
800	3.8	4	5.3
960	4	4.2	5.0
1120	4.2	4.4	4.8
1280	4.4	4.6	4.5
1440	4.6	4.8	4.3
1600	4.8	5	4.2
1 Mile	5	5.2	4.0
2 Miles	7.2	7.4	2.8
3 Miles	9.4	9.6	2.1
4 Miles	11.6	11.8	1.7
5 Miles	13.8	14	1.4
6 Miles	16	16.2	1.3
7 Miles	18.2	18.4	1.1
8 Miles	20.4	20.6	1.0
9 Miles	22.6	22.8	0.9
10 Miles	24.8	25	0.8
11 Miles	27	27.2	0.7
12 Miles	29.2	29.4	0.7
13 Miles	31.4	31.6	0.6
14 Miles	33.6	33.8	0.6
15 Miles	35.8	36	0.6
16 Miles	38	38.2	0.5
17 Miles	40.2	40.4	0.5
18 Miles	42.4	42.6	0.5
19 Miles	44.6	44.8	0.4
20 Miles	46.8	47	0.4



# LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

## Agenda Item 7

Brighton & Hove City Council

<b>Subject:</b>	<b>Hackney Carriage Age Limits</b>		
<b>Date of Meeting:</b>	<b>28 June 2012</b>		
<b>Report of:</b>	<b><i>Head of Regulatory Services, Planning and Public Protection</i></b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b><i>Martin Seymour</i></b>	<b>Tel:</b> <b>29-6659</b>
	<b>E-mail:</b>	<b>Martin.seymour@brighton-hove.gov.uk</b>	
<b>Wards Affected:</b>	<b>All</b>		

### 1. SUMMARY AND POLICY CONTEXT:

To amend the age limits for Hackney Carriage Vehicles.

### 2. RECOMMENDATIONS:

2.1 That Committee agree the age limits for hackney carriage vehicles should be amended as follows:-

(a) In the case of a first application for a hackney carriage vehicle licence the vehicle must not normally exceed 7 years of age from date of initial DVLA registration and not more than 10 years of age in the case of any subsequent application for renewal of licence and not to be left-hand drive.

(b) In the case of a vehicle which conforms to the Conditions of Fitness as prescribed by Transport for London, (i.e. purpose built London type hackney carriage vehicles), or is M1 ECWVTA (EC Whole Vehicle Type Approved) and wheelchair accessible, the vehicle must not normally exceed 12 years of age from date of first registration, and not more than 12 years of age in the case of any subsequent application and not be left hand drive.

### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 The current age limits for Brighton & Hove Hackney Carriages are:-

In the case of a first application for a hackney carriage vehicle licence the vehicle must not normally exceed 7 years of age from date of initial DVLA registration and not more than 7 years of age in the case of any subsequent application for renewal of licence and not to be left-hand drive.

In the case of a vehicle which conforms to the Conditions of Fitness as prescribed by Transport for London, (i.e. purpose built London type hackney carriage vehicles), or is M1 ECWVTA (EC Whole Vehicle Type Approved) and wheelchair accessible, the vehicle must not normally exceed 12 years of age

from date of first registration, and not more than 12 years of age in the case of any subsequent application and not be left hand drive

3.2 The trade have requested that Hackney Carriage Vehicles (saloon cars) may be renewed up until 10 years of age instead of the current 7 years. However, the current maximum age at first licensing should remain at 7 years

3.3 The trade have provided the following rationale for requesting a change to age limits.

- **All vehicles will meet the stringent Euro 4 emissions.**

By not allowing any newly licensed Hackney to be over seven years old will ensure all will meet the more stringent 'Euro 4' emissions conditions keeping the City air cleaner.

- **This will assist proprietors who are suffering during this economic recession.**

There will be many who will continue to purchase new vehicles, however this request is aimed at those who are feeling 'the pinch' and are being forced to 'patch up' their high mileage vehicles rather than replace them.

In these hard times of recession with the escalating costs of insurance, maintenance and fuel of running a taxi, many proprietors simply cannot afford brand new vehicles and this would give them the option to purchase ones of a similar age with low mileage from the private sector rather than as the case is now having to buy high mileage ex 'fleet' vehicles. It is considered that it is better to have a one private owner low mileage car than a newer ex 'reps' car with more than 100,000 miles on it.

- **The Department of Transport considers age limits may be arbitrary.**

The Department first issued Best Practice Guidance in October 2006 to assist those local authorities in England and Wales that have responsibility for the regulation of the taxi and private hire vehicle (PHV) trades.

**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.

- **All vehicles will continue to undergo the stringent council MOT.**

It must be reminded that all vehicles undergo a "Condition of Fitness" test at a council approved garage which is far stricter than a normal MoT.

- **Brighton & Hove Private Hire already have a ten year age limit with no detriment to the City.**

Brighton & Hove licensed Private Hire have for some years now been allowed to be licensed up to ten years. This request was made to help the Private Hire drivers



during this recession and this request is made to help the Hackney Carriage Proprietors

- 3.4 Replacing a licensed vehicle on attaining current age limits could, in the current financial climate be punitive to the proprietor and place unreasonable financial and/or personal pressures on Licence holders. However, amending the current age limits could lower standards since age restrictions were established to the detriment of the service to which the public are entitled.
- 3.5 By raising age limits there is the inevitable decline in mechanical standards including greater likelihood of breakdown, inevitable decline in comfort and image. New vehicles have improved safety standards and lower emissions built in at manufacture.
- 3.6 Members may wish to consider if raising age limits may impact in designated Air Quality Management Areas (AQMAs) within the City,
- 3.7 Proprietors are already able to licence vehicles over the current age limits where the vehicle is deemed to be in exceptional condition.
- 3.8 The Hackney Carriage Fares formula is based on hackney carriage vehicles being first licensed at 4 years or under. If members wish to amend vehicle age limits they may wish to amend the current fares formula to reflect the change in the vehicle age limits.
- 3.9 The Department for Transport best practice guidance states:  
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.

#### **4. CONSULTATION**

The matter has been discussed at the council's Hackney Carriage and Private Hire Consultation Forum and had full support from trade members.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### **5.1 Financial Implications:**

There are no direct financial implications to the council from the recommendations in this report.

Finance Officer Consulted: Karen Brookshaw

Date: 30/05/12

5.2 Legal Implications:

The Local Government (Miscellaneous Provisions) Act 1976 empowers a local authority to attach to the grant of a licence of a hackney carriage or a private hire vehicle such conditions as they may consider reasonably necessary.

Lawyer Consulted: Louise Hanrahan Date: 22 May 2012

5.3 Equalities Implications:

Many decisions made by the Licensing Committee have been in support of the council's Single Equality Scheme objective to improve disabled people's access to hackney carriage and private hire services. The current 12 year limit provides an incentive to invest in more expensive fully wheelchair compatible vehicles if this differential was smaller the incentive to purchase a wheelchair accessible vehicle would be diminished.

5.4 Sustainability Implications:

Raising vehicle age limits may not contribute to the government's shared transport priority of improving air quality and accessibility.

5.5 Crime & Disorder Implications:

None.

5.6 Risk and Opportunity Management Implications:

The transport industry should be safe, profitable and be a positive experience for residents and visitors.

5.7 Corporate / Citywide Implications:

Tourism needs to provide a warm welcome to visitors and the tourism strategy depends upon effective partnership with transport operators particularly to achieve safe late night dispersal for the night time economy.

**SUPPORTING DOCUMENTATION**

**None**

# LICENSING COMMITTEE (NON LICENSING FUNCTIONS)

## Agenda Item 8

Brighton & Hove City Council

<b>Subject:</b>	<b>Consultation on Reforming the law of taxi and private hire services</b>		
<b>Date of Meeting:</b>	<b>28 June 2012</b>		
<b>Report of:</b>	<b>Head of Planning and Public Protection</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Jean Cranford</b>	<b>Tel: 29-2550</b>
	<b>Email:</b>	<b>jean.cranford@brighton-hove.gov.uk</b>	
<b>Ward(s) affected:</b>	<b>All</b>		

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 To report on the Consultation on Reforming the law of taxi and private hire services.

#### 2. RECOMMENDATIONS:

That Committee endorses a response to the Law Commission that local authorities

- should be allowed to retain the power restrict numbers of hackney carriages which is current licensing policy;
- should be allowed to set distinctive local vehicle standards such as livery (provisional proposal 34);
- should have comprehensive powers to set taxi fares for consumer protection (provisional proposal 43);
- should be allowed to set standards for drivers, such as topographical knowledge testing for private hire drivers, (Q27);
- have adequate powers to control cross border hiring (1.15 of summary);

and this local authority would support any measures that would assist disabled passengers (Q57/63).

#### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 On 10 May 2012, the Law Commission launched consultation on reforming the law of taxi and private hire services.
- 3.2 Here is a link: <http://lawcommission.justice.gov.uk/consultations/1804.htm>

- 3.3 Included in the proposals are national minimum standards for both taxis and private hire vehicles; changes to standard setting; private hire operators no longer restricted to accepting or inviting bookings within a particular locality; London would be regulated as the rest of England and Wales; licensing authorities could no longer limit the number of taxi licences; more enforcement powers for officers; disability awareness training for drivers; introduction of a statutory definition of “plying for hire “; weddings and funeral cars no longer exempted; allowing leisure use of taxis and private hire vehicles; bringing more vehicles into the licensing system (e.g. including limousines, motorbikes and pedicabs); clearer exclusions for volunteers and other services where transport is not the main service provided (e.g. childminders); and powers for government to issue binding statutory guidance to create greater consistency in how taxi and private hire legislation is applied.
- 3.4 The Law Commission is also asking questions about
- 1) a new category of wheelchair accessible vehicles;
  - (2) extending operator licensing to taxi radio circuits;
  - (3) possible use of the term “taxi” in respect of private hire services if used in phrases like “pre-booked taxi only”;
  - (4) reintroducing a (revised) contract exemption;
  - (5) improving the enforcement powers of licensing officers; and
  - (6) a new “peak time” taxi licence that could only be used at particular times of day as decided by the licensing authority.
- 3.5 The full summary can be found at appendix 1.
- 3.6 The consultation paper includes a list of provisional proposals and questions. Please see appendix 2 for a full list of those proposals and questions.
- 3.7 Although the consultation paper includes a long list of proposals and questions (74), officers believe that many questions are either not relevant or do not require a response. However, there are six points which officers feel are extremely important or particularly sensitive, namely that local authorities should be allowed to restrict numbers of vehicles (provisional proposal 54 says LA’s should no longer have the power to restrict taxi numbers, Q55/56 also refer); local authorities should be allowed to set local standards such as livery (provisional proposal 34); local authorities should have comprehensive powers to set taxi fares (provisional proposal 43); local authorities should be allowed to set standards for drivers, especially private hire drivers, (Q27); cross border hire (1.15 of summary); this local authority would support any measures that would assist disabled passengers (Q57/63).
- 3.8 Law Commission provisional proposal 60 states “We do not propose to introduce national quotas of wheelchair accessible vehicles”. Provisional proposal 61 “National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training”.

#### **4. COMMUNITY ENGAGEMENT AND CONSULTATION**

- 4.1 This matter has been discussed at the Taxi Forum.

- 4.2 Consultation closes on 10 September 2012. The Law Commission aims to produce a report with their final proposals and a draft Bill by November 2013.

## **5. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 5.1 There are no direct financial implications associated with the recommendation in this report, other than for the use of officer time.

*Finance Officer Consulted: Karen Brookshaw Date: 17/05/2012*

### Legal Implications:

- 5.2 The Licensing (Non Licensing Act) Committee is empowered to discharge the council's functions regarding licensing and registration and any associated or connected functions. Approving the proposed response to the consultation paper is therefore within its powers.

*Lawyer Consulted: Liz Woodley Date: 18/06/2012*

### Equalities Implications:

- 5.3 Recommendations are designed to promote equality of opportunity, eliminate unlawful discrimination, promote participation in public life and meet the needs of disabled people. Improving access to taxis/Private Hire Vehicles (PHVs) is a priority action in the council's Equality Scheme. Improving access to services by public transport is included in the Local Area Agreement.

### Sustainability Implications:

- 5.4 The role of the taxi trade is included in the Local Transport Plan, which identifies it as a key element in providing sustainable transport choices. It creates important links in the transport network to other forms of sustainable transport providing a seamless connection. Improving accessibility is one of the government's four shared transport priorities.

### Crime & Disorder Implications:

- 5.5 Sufficient late night transport to reduce public place violent crime is recognised in the community safety, crime reduction and drugs strategy. The presence of CCTV can be an important means of deterring and detecting crime.

### Risk and Opportunity Management Implications:

- 5.6 The transport industry should be safe, profitable and be a positive experience for all residents and visitors.

Public Health Implications:

- 5.7 Providing a range of transport options for all passengers improves physical, mental and social wellbeing.

Corporate / Citywide Implications:

- 5.8 Tourism needs to provide a warm welcome to visitors and the tourism strategy depends upon effective partnership with transport operators particularly to achieve safe late night dispersal for the night time economy.

**6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 N/A

**7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 To update Licensing Committee.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. Summary document "Reforming the law of taxi and private hire services"
2. List of provisional proposals and questions.

**Documents in Members' Rooms**

1. None.

**Background Documents**

1. None.

**Law Commission**  
**REFORMING THE LAW OF TAXI AND**  
**PRIVATE HIRE SERVICES**  
**Summary**

**INTRODUCTION**

1.1 In July 2011, the Law Commission agreed to undertake a law reform project on the law of taxis and private hire vehicles. The project was proposed by the Department for Transport, but when we work on a project, the Law Commission is independent of the Government. This paper summarises our full consultation paper, which is available at <http://www.lawcom.gov.uk> (see A-Z of projects > Taxi and Private Hire Services). It reviews the law, and makes provisional proposals for reform. We now seek your comments and views on our provisional proposals and questions.

1.2 This summary is split into three main sections:

- (1) an introduction and outline of key proposed changes;
- (2) the case for reform and a brief discussion of the main themes and impact assessment; and
- (3) a full list of our provisional proposals and questions.

**WHAT THIS PROJECT IS ABOUT**

1.3 In England and Wales, both taxis and private hire vehicles must be licensed. There is a fundamental legal distinction between taxi and private hire services. Taxis, referred to as “hackney carriages” in much of the legislation, can be hailed on the street or work at a rank for immediate hire. Only taxis can do this, which is referred to in law as “plying for hire”. Alternatively, taxis can be booked in advance either directly with the driver or through a third party without the need for an additional licence. By contrast private hire vehicles cannot “ply for hire” and can only be booked in advance. Private hire drivers cannot take bookings directly and can only take passengers that have booked through a licensed operator. A person engaging in any of these activities without the correct licence is committing a criminal offence.

**Consultation**

1.4 It is of primary importance that the views expressed in our consultation documents are only provisional, so that they can form the basis of a discussion on consultation. We are not firmly wedded to any of these proposals. Indeed, experience suggests that our final report is likely to differ substantially from the provisional proposals we now make.

1.5 This consultation period will be our main evidence-gathering exercise, and the only opportunity for the public to directly provide their views. After this consultation we will analyse responses and reconsider our proposals. We aim to produce a report with our final proposals and a draft Bill by November 2013.

1.6 The opportunity to discuss the issues with interested parties is always most helpful. We would therefore welcome invitations to attend or present at relevant conferences, seminars, workshops or other events during the consultation period.

**Our approach**

1.7 Our terms of reference require us to give due regard to the potential advantages of deregulation. This does not require us to blindly pursue deregulation at all costs. Nor does it mean the removal of all or even most regulation. Rather, it means that we must look at each element of the existing regulatory system to ensure that it does not

impose unnecessary costs on the industry, and that it is structured in the right way to accomplish its supposed ends.

1.8 We have applied this view of the right regulatory approach in the provisional proposals and questions we ask in this review. The overall effect is of a moderate reform programme, which retains much of the existing structure of regulation, while seeking to improve and simplify it.

## **OUTLINE OF KEY PROPOSED CHANGES**

1.9 The main changes that might follow from our provisional proposals include:

- (1) National minimum safety standards for both taxis and private hire vehicles.
- (2) Changes to standard-setting: additional local standards, above the national standards, would continue to apply to taxis (for example, topographical knowledge and vehicle requirements). However, for private hire vehicles, only the national standards would apply and there would be no scope for additional local standards. However we ask about possible exceptions where local private hire standards may be retained, for example, in respect of signage.
- (3) It would be easier for private hire services to operate on a national basis. We suggest private hire operators would no longer be 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.
- (4) London would be regulated under the same flexible framework as the rest of England and Wales.
- (5) Licensing authorities could no longer limit the number of taxi licences.
- (6) More enforcement powers for licensing officers against out-of-borough vehicles and drivers.
- (7) Disability awareness training for drivers.
- (8) Introduction of a statutory definition of “plying for hire” (but without changing it in substance).
- (9) Weddings and funeral cars would no longer be exempted through primary legislation.
- (10) Allowing leisure use of taxis and private hire vehicles.
- (11) Bringing more vehicles within the licensing system (including for example limousines, motorbikes and pedicabs) – but giving the Secretary of State and Welsh Ministers power to make exclusions, and to set separate standards, in respect of different categories of vehicle.
- (12) Clearer exclusions for volunteers and other services where transport is not the main service provided, such as childminders.
- (13) Powers for government to issue binding statutory guidance to create greater consistency in how taxi and private hire legislation is applied.

1.10 We also ask questions about the following:

- (1) a new category of wheelchair accessible vehicles;
- (2) extending operator licensing to taxi radio circuits;
- (3) possible use of the term “taxi” in respect of private hire services if used in phrases like “pre-booked taxi only”;
- (4) reintroducing a (revised) contract exemption;
- (5) improving the enforcement powers of licensing officers; and
- (6) a new “peak time” taxi licence that could only be used at particular times of day as decided by the licensing authority.

1.11 This list only provides simplified, headline points and does not include all the changes we propose. Some of the provisional proposals would not give rise to change in London, such as allowing sub-contracting and leisure use of vehicles.



## **THE NEED FOR REFORM**

1.12 The law on taxis and private hire vehicles is fragmented, complex, and out of touch with 21st century life. The oldest taxi legislation that still applies dates from 1831 and the regime has been extended, amended and adapted ever since. Private hire vehicle legislation was not introduced until 1976 (1998 in London), in response to growth in the unlicensed trade, and many regard it as hastily constructed and ill thought out.

1.13 Both taxi and private hire services are highly regulated. The pre-booked market is reasonably competitive. Customers can shop around for the provider they prefer and negotiate on price. A customer who is unhappy with the service given by a company can choose a different firm in the future. They may tell their friends to avoid that firm. The same competitive forces do not apply in respect of taxis. Ranking and hailing are not competitive markets. The customer has little choice but to take the taxi hailed or the first taxi at the rank. This can affect the justification for the level of regulation in each market.

1.14 Safety is a key justification for the licensing system as a whole yet there are no national minimum safety standards for drivers and vehicles. Licensing officers have limited enforcement powers which makes it hard for them to make sure the rules are complied with. Disability groups have highlighted significant problems in ensuring accessibility and the safety of disabled passengers.

1.15 There are aspects of the current system, including quantity restrictions on taxi licences and restrictions on cross-border activity, which can also hinder effective competition. Not only can this make taxi and private hire services more expensive than they need to be, but it also has a restrictive effect on business. Our proposals are aimed at simplifying and streamlining the legal framework and removing unnecessary and burdensome regulation.

1.16 The complexity of the regulatory regime, which is based on numerous pieces of legislation, and the piecemeal way in which it has been put together, have left many key concepts and distinctions unclear and difficult to apply. There are many grey areas about what can count as a taxi (can it cover pedicabs for example?) or a private hire vehicle (do child minders and volunteers need a private hire operator licence where they drive as part of their work?). The rules restricting operators to inviting or accepting bookings only within their licensing area do not fit easily with technological developments such as internet and mobile phone bookings. These apparently basic questions have no clear answer and different approaches are taken in different parts of England and Wales.

## **THE MAIN THEMES OF REFORM**

### **A new statute for taxi and private hire services**

1.17 Our aim is to clarify and simplify the existing law on taxis and private hire vehicles and to promote more consistency in bottom-line safety standards across England and Wales, including better provision for disabled passengers. The other key aim of this review is to deregulate aspects not linked to protecting public safety in order to encourage more competitive services. We propose to do so by recommending a new Act of Parliament for taxi and private hire services.

1.18 We are not proposing major changes to the way in which licensing is administered and enforced. As now, local authorities would be responsible for issuing licences, and for taking action (with the police) against those who break the law. In respect of taxis, local authorities would continue to have a standardsetting role, over

and above the national minimum safety standards. Matters such as topographical knowledge, fares and local requirements (such as the turning circle requirement in London) could continue to apply.

### **Retaining a two tier system**

1.19 We think that the legal differences between taxis and private hire vehicles (often known as mini-cabs) are worth keeping. This is sometimes referred to as the two tier system. The alternative, a so-called one tier system, would have a unified category of licensed vehicle doing all (or most) of the same work – pre-booked, hailing and ranking. We accept that the differences between taxis and private hire vehicles are not always well understood by the public, and that this provides an argument for a single tier. But our provisional view is that the distinction between taxis and private hire allows for more targeted regulation. Traditionally taxis can have regulated fares and local requirements like topographical knowledge can be very important. By contrast, private hire services work much more like a free market and recognising the legal distinction means both sides of the trade can work better.

### **London**

1.20 There is currently a different legal framework for London. We recognise the important differences which apply to London but also think that our provisional proposals are sufficiently flexible to allow for these differences given the powers we propose for the Secretary of State and Transport for London (as the relevant licensing authority). We believe this can be done without affecting the distinctive and iconic London black cab.

1.21 We propose that our reforms should apply throughout England and Wales including London. We also invite views about how London may be affected differently in respect of all of our provisional proposals and questions.

### **Welsh devolution**

1.22 We think the same system should apply in Wales as in England, but, in light of devolution, Welsh Ministers would have the powers that the Secretary of State has in England.

### **Taxis and the local connection**

1.23 We provisionally propose only moderate changes to the regulation of taxis apart from removing licensing authorities' ability to limit taxi numbers. We suggest retaining the local link with the setting of taxi conditions and fare regulation, licensing and enforcement. We consider the legal definition of "plying for hire", which covers hailing and ranking, but do not propose radical change.

1.24 We do, however, provisionally propose that the Secretary of State and Welsh Ministers should set national *minimum* safety standards. We think all consumers of taxi services should be entitled to the same minimum safety standards, even if local licensing authorities wish to impose higher standards in their area. And establishing national minimum standards, which match the national standards for private hire vehicles (see below), will remove incentives for drivers to try to play the system by being licensed in areas with lower standards. It will also help with the enforcement of conditions across each country.

### **Taxis and quantity restrictions**

1.25 We also provisionally propose that the power to limit the number of taxis which can be licensed in a licensing area should be removed. We accept that there are some good arguments for retaining the power (although not on the existing basis of a bureaucratic assessment of unmet demand), but provisionally consider that on

balance quantity regulation is not justified. Transport for London does not have the power to limit the number of taxi licences, so our provisional proposal makes no change for the capital.

### **Private hire and national standards**

1.26 Our provisional proposals are more far-reaching in respect of private hire licensing. We think that the Secretary of State and Welsh Ministers should set national standards for private hire vehicles, drivers and operators, and that licensing authorities should not have the power to impose higher standards. This reflects our view that the pre-booked market works reasonably well as a competitive market, and so there is no need for rules and regulations to guarantee quality or control fares. We ask if there should be an exception to allow local standard setting about signage. Local licensing authorities would continue to issue licences and to be responsible for enforcement. We also look at whether operator licensing should be extended to cover, for example, taxi radio circuits.

1.27 We propose that the national standards for private hire vehicles should be set at the same level as the minimum standards for taxis. Both in respect of taxis and in respect of private hire vehicles, the power to set standards would allow for different standards to be set for different descriptions of vehicles.

### **Cross-border**

1.28 Our provisional proposals aim to clarify the ability of private hire operators to work cross-border. We suggest that operators should no longer have to use drivers and vehicles all licensed with the same authority, enhancing the ability of business to work more efficiently, as well as permitting sub-contracting (adopting the current position in London). The location where a booking is accepted would no longer be critical, which would fit better with technological developments in mobile technology and the internet.

1.29 Our provisional proposals in respect of more effective enforcement and common bottom-line safety standards could help reduce incentives for drivers to seek taxi licences in locations far away from where they actually intend to work on a purely pre-booked basis (akin to a private hire vehicle). We do not propose to introduce a return-to-area requirement for vehicles dropping off customers outside their licensing area.

### **Increased enforcement powers**

1.30 We make provisional proposals to improve enforcement of conditions. We suggest improving licensing officers' powers; and ask about the effectiveness of tougher sanctions such as impounding vehicles.

1.31 The existence of national standards for private hire and minimum standards for taxis should itself make enforcement easier, particularly cross-border enforcement (that is, enforcement by an officer of a licensing authority other than that which licenses the taxi or private hire vehicle).

1.32 We also make proposals designed to improve cross-border enforcement, and look at the extent to which enforcement officers' powers could be strengthened.

### **Equality and accessibility**

1.33 Taxis and private hire vehicles provide vital transport links for many older or disabled persons as well as people with reduced mobility. Providers of transport services have a legal obligation not to discriminate against disabled people, and local authorities are subject to a duty to promote equality in the exercise of their functions.

1.34 We consider how to promote safety for disabled passengers through, perhaps, introducing a separate licence category for wheelchair accessible vehicles and vehicles adapted for other disabilities. We considered the merits of introducing national quotas of accessible taxis but suggest that such a system does not appear workable. Our provisional proposals include compulsory disability discrimination training for taxi and private hire drivers.

1.35 This is only an extremely short account of our provisional proposals, which cover a number of other detailed areas, including hearings and appeals.

### **IMPACT ASSESSMENT**

1.36 This consultation also includes an impact assessment and we ask consultees for information about the costs and financial benefits likely to arise from different aspects of the review.

1.37 Our expectation is that the review as a whole will be deregulatory, and it will be important to understand the extent of likely savings. Where some new regulatory pressures arise (for example in respect of accessibility or licensing of limousines) it will be equally important to understand how large those new burdens are likely to be. The impact assessment is available at <http://www.lawcom.gov.uk> (see A-Z of projects > Taxi and Private Hire Services).

### **LIST OF PROVISIONAL PROPOSALS AND QUESTIONS**

1.38 The list below sets out our provisional views for consultation. They are divided between provisional proposals, where the Law Commission has a preliminary stance and is seeking views on it, and open questions where we are seeking more evidence and have not reached a preliminary position.

1.39 It would be helpful if you could give us your views on the provisional proposals and questions we ask, as well as on any other areas you feel are important. The page numbers refer to the full consultation paper which has more detail.

**Law Commission**  
**REFORMING THE LAW OF TAXI AND**  
**PRIVATE HIRE SERVICES**  
**LIST OF PROVISIONAL PROPOSALS AND**  
**QUESTIONS**  
**OVERVIEW OF PROVISIONAL REFORM PROPOSALS**

**Provisional proposal 1**

Regulation should continue to distinguish between taxis, which can accept prebooked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. *(Page 160)*

**REFORM OF DEFINITIONS AND SCOPE**

**Provisional proposal 2**

London should be included, with appropriate modifications, within the scope of reform. *(Page 162)*

**Provisional proposal 3**

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. *(Page 164)*

**Question 4**

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? *(Page 164)*

**Provisional proposal 5**

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. *(Page 165)*

**Provisional proposal 6**

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. *(Page 166)*

**Provisional proposal 7**

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. *(Page 167)*

**Provisional proposal 8**

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. *(Page 168)*

**Question 9**

How, if at all, should the regulation of taxis and private hire deal with:

- (a) carpooling; and
- (b) members clubs? *(Page 170)*

**Provisional proposal 10**

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. *(Page 171)*

**Provisional proposal 11**

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. *(Page 172)*

**Question 12**

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers’ exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse? *(Page 174)*

**Provisional proposal 13**

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to “streets”. *(Page 175)*

**Question 14**

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? *(Page 177)*

**Provisional proposal 15**

The defining feature of taxis, the concept of “plying for hire”, should be placed on a statutory footing and include:

- (a) references to ranking and hailing;
- (b) a non-exhaustive list of factors indicating plying for hire; and
- (c) appropriate accommodation of the legitimate activities of private hire vehicles.

*(Page 181)*

**Provisional proposal 16**

The concepts of hailing and ranking should not cover technological means of engaging taxi services. *(Page 181)*

**Question 17**

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”?

*(Page 182)*

**Provisional proposal 18**

The concept of compellability, which applies exclusively to taxis, should be retained. *(Page 182)*

**Provisional proposal 19**

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. *(Page 183)*

**Provisional proposal 20**

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved. *(Page 184)*

**Provisional proposal 21**

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements. *(Page 185)*

**Provisional proposal 22**

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned. *(Page 185)*

**Question 23**

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “prebooked” and did not otherwise lead to customer confusion? *(Page 186)*

**A REFORMED REGULATORY FRAMEWORK**

**Provisional proposal 24**

Taxi and private hire services should each be subject to national safety requirements. *(Page 188)*

**Provisional proposal 25**

National safety standards, as applied to taxi services, should only be minimum standards. *(Page 189)*

**Provisional proposal 26**

National safety standards, as applied to private hire services, should be mandatory standards. *(Page 189)*

**Provisional proposal 27**

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers. *(Page 190)*

**Question 28**

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? *(Page 190)*

**Question 29**

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? *(Page 191)*

**Question 30**

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? *(Page 192)*

**Provisional proposal 31**

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety. *(Page 192)*

**Provisional proposal 32**

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. *(Page 193)*

**Question 33**

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? *(Page 193)*

**Provisional proposal 34**

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. *(Page 193)*

**Question 35**

Should there be statutory limits to licensing authorities' ability to set local taxi standards? *(Page 194)*

**Question 36**

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? *(Page 194)*

**Question 37**

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? *(Page 195)*

**Provisional proposal 38**

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. *(Page 196)*

**Provisional proposal 39**

Licensing authorities should have the option to create, or remove, taxi zones within their area. *(Page 196)*

**Question 40**

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? *(Page 197)*

**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. *(Page 198)*

**Provisional proposal 42**

We do not propose to introduce a "return to area" requirement in respect of outof-area drop offs. *(Page 199)*

**Provisional proposal 43**

Licensing authorities should retain the ability to regulate maximum taxi fares.  
Licensing authorities should not have the power to regulate private hire fares. (Page 200)

**Question 44**

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (Page 200)

**REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING**

**Question 45**

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 203)

**Provisional proposal 46**

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. (Page 204)

**Question 47**

Should national vehicle safety standards be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 205)

**Provisional proposal 48**

Operator licensing should be retained as mandatory in respect of private hire vehicles. (Page 206)

**Question 49**

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? (Page 208)

**Provisional proposal 50**

The definition of operators should not be extended in order to include intermediaries. (Page 209)

**Question 51**

Should “fit and proper” criteria in respect of operators be retained? (Page 209)

**Provisional proposal 52**

Operators should be expressly permitted to sub-contract services. (Page 210)

**Question 53**

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? (Page 210)

**REFORMING QUANTITY CONTROLS**

**Provisional proposal 54**

Licensing authorities should no longer have the power to restrict taxi numbers. (Page 213)

**Question 55**

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? (Page 213)

**Question 56**

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed? (Page 215)

**TAXI AND PRIVATE HIRE REFORM AND EQUALITY**

**Question 57**

Should there be a separate licence category for wheelchair accessible vehicles?

This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. (Page 217)



**Question 58**

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? *(Page 217)*

**Question 59**

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? *(Page 217)*

**Provisional proposal 60**

We do not propose to introduce national quotas of wheelchair accessible vehicles. *(Page 218)*

**Provisional proposal 61**

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. *(Page 219)*

**Provisional proposal 62**

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. *(Page 219)*

**Question 63**

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? *(Page 220)*

**REFORMING ENFORCEMENT****Question 64**

Should authorised licensing officers have the power to stop licensed vehicles? *(Page 222)*

**Question 65**

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”. *(Page 223)*

**Question 66**

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? *(Page 223)*

**Question 67**

Should licensing authorities make greater use of fixed penalty schemes and if so how? *(Page 225)*

**Provisional proposal 68**

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. *(Page 225)*

**Question 69**

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? *(Page 226)*

**REFORM OF HEARINGS AND APPEALS****Provisional proposal 70**

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. *(Page 230)*

**Provisional proposal 71**

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. *(Page 231)*

**Provisional proposal 72**

Appeals should continue to be heard in the magistrates' court. *(Page 232)*

**Question 73**

Should there be an onward right of appeal to the Crown Court? *(Page 233)*

**CONCLUSION**

1.41 It is not possible in a summary of this length to introduce all of our provisional proposals. Consultees are therefore encouraged to refer to the full Consultation Paper available on our website. Please send responses by **10 August 2012**.

**How to respond**

Send your responses either -

**By email to:** [tph@lawcommission.gsi.gov.uk](mailto:tph@lawcommission.gsi.gov.uk) or

**By post to:** Public Law Team (Taxi and Private Hire), Law Commission, Steel House, 11 Tothill Street, London SW1H 9LJ

Tel: 020 3334 0266 / Fax: 020 3334 0201

If you send your comments by post, it would be helpful if, where possible, you also sent them to us electronically (in any commonly used format).