

Sheffield City Councils – response to law commission consultation paper on taxi and private hire law review.

Provisional Proposals

1.1 **CHAPTER 13 - OVERVIEW OF PROVISIONAL REFORM PROPOSALS**

Provisional proposal 1

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

- 1.2 Continuing to distinguish between Hackney Carriage and Private Hire would generally be welcomed by the Local Authority and also the trade in Sheffield. This would be particularly true of the Hackney Carriage trade. In a City like Sheffield where there is a clear distinction in the types / standards of vehicles that are allowed to be used currently as licensed vehicles this proposal would enable us to keep the status quo.
- 1.3 It is our view that the new legislation should be made to fit with the “Localism Principle” of delegating powers and decisions down to locally elected members and the communities. It should be up to the people of Sheffield to decide what types of vehicles, standards of drivers etc. they want to see in their city.
- 1.4 There would be little or no impact on Sheffield City Council with this proposal as it is the way that we administer taxi / private hire licensing currently. We would welcome this proposal being accepted and continued in the new legislation.

2. **CHAPTER 14 – REFORM OF DEFINITIONS AND SCOPE**

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform.

- 2.1 It is our opinion that London should be included in the reforms if the reform is to create a national standard / piece of legislation this would surely be the common sense approach. This would help create consistency across the Country. However, there does need to be local choice to ensure that local authorities can shape your own city offer and the night time economy to suit and in turn achieve such awards as the Purple Flag. This would enable local authorities to create a safe and friendly environment within their city and a late night public transport service that can be trusted.
- 2.2 There would be no impact on Sheffield City Council with this proposal.

3 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.

- 3.1 This would be a major change and it would bring all types of hire vehicles into the licensing regime, for example wedding and funeral cars and other novelty vehicles. It would cover all vehicles that carry 8 passengers or less for reward.
- 3.2 This proposal would have a significant impact on Sheffield City Council and would require us to consider major changes to our policies. We are not against this proposal but would like to see it involve some form of local choice. This could be achieved by including a different section in the Act for Wedding Cars / Funeral Cars allowing Local Authorities to adopt a slightly different approach / standards to these types of vehicle. This would give flexibility as well as local control.
- 3.3 Another impact that would need to be considered is the number of applications this could generate, the testing of vehicles and the administration work that would be involved. The new legislation may need a transitional period similar to what was given to businesses under the Licensing and Gambling Act's.
- 3.4 Local and national publicity / advice would need to be available for new customers and existing providers of such services that would find themselves subject to new regulation.
- 3.5 Advantages are that it would create a single piece of legislation governing all vehicles provided for hire with the services of a driver. It would also remove many of the grey areas in the current licensing regime.
- 3.6 There would be no overlap of providing a service with a smaller vehicle to replace a mini bus as is the current situation and allows people to circumvent the law. All drivers of such vehicles would be subject to enhanced checks and have to undertake a full application procedure.
- 3.7 Disadvantages are minor and are generally around how the legislation would be phased in and the timescales given to existing operators to move across to the new system.

4. Question 4.

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

- 4.1 There are both advantages and disadvantages to this suggestion. What we need to consider is what do the public want and what is the reason for control.
- 4.2 The people providing this service should still be subject to checks on whether they are fit and proper. They should also be required to have a medical to ensure they are fit to undertake this type of work and the vehicle / bike should be subject to inspection / tests for safety reasons.

This is essential for the service users, a licence given by the Local Authorities gives some reassurance to users.

- 4.3 Many people would welcome the idea of being transported around seaside resorts, city centres, places of interest by these smaller forms of transport. In the summer it would be extremely appealing to many visitors / tourists. However, we need to consider areas like Sheffield that are extremely hilly and have many steep roads. Perhaps the power for local authorities to restrict the areas in which these services can be provided / operate would be essential in the legislation.
- 4.4 We feel it is clear that pedicabs, and trikes etc. require some form of licence, registration and enforcement system. It seems sensible to include this in the review and once again we would suggest a separate section within the Act for this form of transport. Consideration will also need to be given to imposition of conditions on a licence in respect of displaying a licence plate on such vehicles similar to funeral and wedding cars.
- 4.5 There would be very little impact on the Council dependant upon the level of new applications, administration and enforcement. As detailed above regarding wedding and funeral cars there is a need for good publicity of the new requirements and a transitional period for us to engage with existing operators etc.
- 4.6 Another advantage to this proposal is that it would make it a lot clearer for the public and licensees what type of licenses they need for what type of service.
- 4.7 Disadvantages are minor and are generally around how the legislation would be phased in and the timescales given to existing operators to move across to the new system.

5. **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.

- 5.1 This is an extremely grey area currently with the bus companies being allowed through a legal loophole to replace a minibus with over 8 seats with a vehicle with under 8 seats. These vehicles do not have the same checks as a private hire vehicles and the driver does not legally have to have any checks on their suitability as a driver to ensure their fit and properness. This seriously undermines the role of the local authority which is to ensure / promote "Public Safety" and we would strongly support any changes to the law / regulations to prevent this practice from happening. The proposal would be recommended by most local authorities and the trade as it would clear up the anomalies / conflict with the two pieces of legislation.
- 5.2 There would be very little impact on the council as this would iron out one of the grey areas of licensing which causes confusion to the public and local authority officers. The main impact would be that enforcement could take place on legal vehicles as they would no longer be able to hide behind or use the PSV licenses.

6. **Provisional proposal 6**

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

- 6.1 This is an extremely grey area we have stated in paragraph 5.1 / 5.2 above. When undertaking this practice these businesses charge separate fares and are able to run like a hackney carriage. This in real terms does not happen. Passengers get in the vehicle as a group of four people and pay a single fare of £8. (£2 per person). This is obviously incorrect as the driver would not charge a single passenger £2 for that same journey.
- 6.2 This is largely unenforceable and as a licensing authority we feel that this clause MUST NOT appear in any new legislation that is drafted. This is a rogue's ticket to provide a service without being properly licensed.
- 6.3 This would provide a massive positive impact for the council and passengers as this would remove an issue that causes confusion to the public and licensing officers.
- 6.4 Another positive impact on the licensing service would be that they could enforce this new legislation / regulation on such illegal vehicles and they could no longer hide behind and / or use the PSV licenses to use small vehicles or that the passengers were to pay separate fares.
- 6.5 This would be a major advantage as mentioned earlier it takes away any confusion about who needs a licence and where they need that licence from.

7. **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.

- 7.1 In legal terms the issuing of guidance means nothing and it can not be relied upon in Court etc. Guidance is what it says, it is only guidance and not legislation that can be enforced. We have learnt in the past that guidance from a Government Department or Member of Parliament can be wrong and challenged in Court if a Council uses the guidance to make policies using only such guidance.
- 7.2 Stretch limousines as such remain in the jurisdiction of the traffic commissioners if the vehicles are manufactured to carry more than 8 passengers. What we need to prevent is vehicles under 8 passenger seats being used under the traffic commissioners regulation if proposal 5 above is to be implemented.

7.3 There is no impact on the Council as this would be guidance to the TC and not to the Council. There is the option of bringing the licensing of stretch limousines under the same piece of legislation as with wedding cars etc. and incorporate in a separate section of the Act so it becomes law. We feel that this would be much more beneficial and improve public safety in this area.

8. **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.

8.1 This would mean the exclusion from the need for licenses from the volunteer sector, and such schemes that now fall under private hire such as hire firms that pick you up, pet ambulances, home helps and childminders and many others that are out there.

8.2 There is no real negative impact on the Council with this proposal as we have not been over active on the enforcement of this particular area. It is not seen as a priority and has not been seen to be in the public interest to pursue such matters.

9. **Question 9**

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

(a) carpooling; and

(b) members clubs?

9.1 Carpooling is an area that may well in some instances fall within the current area of private hire legislation especially if the driver of the car receives some remuneration for being the driver that day. So it would be a benefit to all if this area was taken out of the legislation and become clearly defined for all what is required from a Carpool to exempt them from requiring a licence.

9.2 Members clubs – this really depends on what the members clubs are for, and why they are set up for in the first instance.

9.3 The example of “Women Only” (e.g Pink Ladies) vehicles and drivers should remain a licensing matter and they require a private hire operators licence, and the vehicles and drivers should be licensed by the local authority as with any other private hire vehicle.

9.4 Members clubs that aid communities for instance where the members help other members, and assist the vulnerable and disabled may well benefit from being exempted. However, once again it would need to be clearly defined within the legislation.

10 **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.

- 10.1 This would mean the Secretary of State setting a national standard for drivers and vehicles thus affecting the ability of a local council to set its own standards. We would be totally against this proposal, as it would be moving away from localism and the principle of local people / elected members deciding what they want locally. We would support this idea if the Minister were only to set minimum standards with powers given within the legislation to Local Authorities to enhance those standards. The legislation would need to give strong legal support to those authorities who choose to set higher standards than the national minimum. Without that legal provision it would leave them open to challenge and more importantly potentially place the public at risk.
- 10.2 We believe this would have a significant impact on Sheffield City Council and its ability to have local standards, conditions and specifications. We have worked really hard over recent years in partnership with trade to improve standards and to enhance the trades reputation. Together we have produced what we think is a high quality public transport service for residents and visitors to our city.
- 10.3 Although, a lot will depend on the standards that come into force nationally if the standards are set lower than what we currently have in Sheffield we would foresee major problems. Particularly, if there were no legal powers for us as a local authority to impose higher standards. This would significantly increase the risk to the public using this service.

11 **Provisional proposal 11**

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation.

- 11.1 Although this has previously been answered earlier in our response. We would like to re-iterate that this can only be a positive and give our support to including wedding cars, funeral cars, pedicabs, and trikes etc. within the legislation. These forms of transport require some form of licence, registration and enforcement system. It seems sensible to include them in this review and once again we would suggest a separate section / provisions within the Act for this form of transport.

12 **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?

- 12.1 We believe there is no merit for introducing exemptions to the new legislation in this format.

- 12.2 We believe an exemption of this kind would be open to abuse and at this particular point in time it serves no purpose. If an individual is offering a service of this kind then they should be required to obtain a licence. It is our belief that there are no modifications that would not be open to challenge and all that exemptions would do is waste time and money on legal challenge and contested issues.
- 12.3 The reform of this legislation is to iron out the problems of challenges in court and the badly written legislation. Any introduction of exemptions such as this will just lead to more time spent in court on appeals, judicial reviews and prosecutions. The legislation should be clear for local authorities, licensees and the public. Keep it simple, if you offer a service of a car and driver and you should have to be licensed.

13 **Provisional proposal 13**

Regulation of the way taxis and private hire vehicles can engage with the public should not be limited to “streets”.

- 13.1 In simple terms this would mean that anybody or any company offering a service from private land would all be caught by the same legislation. This would mean that places such as Airports, Shopping Centres, and Bus Stations would now be caught by the legislation thus the plying for hire laws that the council struggle to prove in these areas would become clearer.
- 13.2 This would allow the Council to prosecute illegal plying for hire on “private land” that currently is a legal minefield.

14 **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?

- 14.1 This is a question that really doesn't affect Sheffield as the airport no longer exists. However, it would affect us if the Railway Companies or Shopping Centres entered into agreements with Private Hire companies to provide services from their premises or land.
- 14.2 It would be extremely difficult for the Council to enforce the law against someone who provided a shuttle service for people not wishing to use the “agreed services”. It also asks the question of who would be responsible for the enforcement of such a service and who would be liable for the costs.
- 14.3 What parameters would be set to the shuttle service these would have to be strict and adhered to, 1 per hour – is that good enough, 1 every 10 minutes etc. What is the “green effect” to this proposal of having one form of transport to take people to another form of transport? How much would it be used?
- 14.4 Currently this is not a major problem. It would be easier for a Council to enforce a public service area to have a hackney rank in a safe and prominent place within the complex, thus allowing hackney carriages to ply their trade free of charge.

15. **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

- 15.1 To have a statutory footing for the offence of “plying for hire” would be beneficial. However, there are currently easy factors that point to illegal plying for hire, if you are on a street and you make yourself and a vehicle available for immediate hire then that is plying for hire.
- 15.2 If you are to maintain a two tier system then the penalties for this need to be much higher and need to be vigorously enforced across the country. This becomes much more important if the option of limitation is removed as this means that the driver has made a choice of which area they wish to work and has not been forced into private hire as there are no Hackney Carriage Vehicle licences available.
- 15.3 Having legitimate activities for private hire must not lead to a “cheaters charter” and allow companies and single private hire drivers, to bend the rules. The law must be watertight, rigorous and tough and not leave loopholes for exploitation.
- 15.4 We would support the use of new technology to be allowed when bookings are made with a private hire operator.
- 15.5 The booking of a single vehicle should not be allowed within the confines of that vehicle. This would mean that the booking could not be made on site or in the vehicle with the driver. The booking would have to be by which ever means is made available at the trading address/office of the operator. If that link then sends a message to a driver who is in the vicinity of the booking then that is fine and should be allowed.
- 15.6 This is an opportunity to make the proposed legislation clearer, and bring it up to date in terms of language used and technology available to Society today. Internet bookings, phone apps etc should be allowed in the acceptance of a booking we need to move with the times. Information retention should form part of the conditions of a licence granted to any private hire operator. Therefore, as part of this review we should be looking at the introduction of statutory conditions for operators to assist in the promotion of consistency across the country. However, there should always be the power for local authorities to set their own local conditions as well.
- 15.7 If this is done correctly then there should be only a positive impact on the local authority. Clearer legislation would aid proper regulation and control and make it easier to bring prosecutions for a plying for hire offence.
- 15.8 In a two tier systems this part of the legislation needs to be robust and is a major concern for the hackney carriage trade.

16. Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services.

- 16.1 This has been covered in adequately in the above paragraphs. We need to move the legislation forward in to the modern era and incorporate new technology. As local authorities and regulators we should not hold back legitimate businesses who wish to move forward with technology.

17. 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”?

- 17.1 This is a difficult one as the Scottish system of “arrangements made in a public place” is not known. We feel it is preferable to look at fresh new legislation and are always concerned when it is proposed to cut and paste from other legislation that we don’t know.
- 17.2 This is an area that would be new and the overall affect on the local authority is unknown. This may well make the enforcement of any offences or misdemeanours easier. You will be aware that it is always in the writing of the legislation that the real impact of such measures will show.

18 Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained.

- 18.1 This should be kept for Hackney Carriage Drivers and should be slightly altered to remove the “cannot reasonably refuse” wording from the Act.
- 18.2 The word reasonably can be interpreted in many ways and should not be in the legislation. The word should be removed to leave “cannot refuse a fare on any grounds other than”. We feel it should list the reasons for refusal. We are aware that this would take some organising and the wording would have to be robust to allow no room for misinterpretation of what is required of the driver.
- 18.3 The Council may need to revisit their bye laws in respect of Hackney Carriages and the refusal of fares if the legislation changes. It may be that the legislation just supersedes the need for byelaws and the council would only need to adopt the new legislation. This will not be answered until the formal legal process begins and the new legislation starts to take shape.

19. 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.

- 19.1 We fully support this approach it is the sensible option if we are to maintain a two tier system.
- 19.2 We would suggest that it states “that taxis that are pre-booked must then follow the law with regards to a private hire operator and they must keep written records of pre bookings, pick up points, passenger names, fare and destination”. We feel that this would allow local authorities to monitor and control taxis working as private hire vehicles.
- 19.3 We feel that there is an argument for taxis to keep written/electronic records of all their work as an “operator of a business”. For journeys from ranks and flag downs the records need not have the passenger name and would only require pick up point, time and drop off point plus the cost of the fare. The Local Authority, Police and / or Inland Revenue should have access on request to these records.

20. **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.

- 20.1 This is already permitted, vehicles can be used for social, domestic and pleasure. The difference is that they still have to be driven by someone licensed to drive a taxi or private hire vehicle.
- 20.2 If this proposal is of the view that non licensed drivers are permitted to drive a vehicle if it is not “working” then we are totally against this proposal entering the new legislation. This would cause an unknown amount of work and conflict and it would be open to interpretation. It would be an open door to unlicensed drivers (criminals, sex offenders etc.) to drive a licensed vehicle. The stated case law from Benson v Boyce has to be the way to forward and must remain in place.
- 20.3 There are many scenarios where if this proposal was allowed, drivers would abuse the system. It would be nearly impossible to evidence a prosecution against unlicensed drivers. Would it be enough for a simple letter from the owner to remove the offence. The legislation needs to be made more robust and prevent circumvention of the law. We in Sheffield feel that this would be a backward step.
- 20.4 To allow licensed vehicles to be driven by unlicensed drivers may cause significant confusion especially if for all intents and purposes they still look like a licensed vehicle (stickers / plate etc.). Police and Local Authority Officers would never know when a vehicle is working as a licensed vehicle or it is not!! This would enable an easy way of avoiding an offence.
- 20.5 Workloads would increase for local authorities as the simple matter of complaints would need much more intense investigation just to ascertain whether firstly the vehicle was being used as a licensed vehicle at that time. If not the complaint could not be taken further, what proof would we need to say it was not being used professionally. It would be totally unhelpful for the public and users of licensed vehicles. The drivers would use this as a get of jail card for complaints.

- 20.6 This would also affect Road Traffic Regulations would an unlicensed driver in a licensed vehicle be allowed to use the bus and tram gates? How would anyone know whether the vehicle is being used in a professional capacity at the time and therefore cannot use the bus lane. Authorities would have to issue tickets to all licensed vehicles just to make sure that the driver was using the vehicle professionally and it was not his wife doing the shopping and beating the queue. What would be acceptable as proof that it was being used professionally?
- 20.7 There would also be confusion on insurance matters. The certificate would contradict itself it would list unlicensed drivers who can only drive for the purpose of social domestic and pleasure but it would have to cover the licensed driver to perform their duties within that licence.
- 20.8 If it was decided that all visual aspects of the licensed vehicle were removed as its identity of being licensed, exterior and interior plates, door signs, roof signs (if applicable), and any other identifying features. It may also require that the legislation states that if the plates are removed from the vehicle for this purpose they are returned to the local Authority for "safekeeping" where a record can then be made and the return of the plates can again be monitored.
- 20.9 However all in all it is our view that this proposal is removed and not taken any further.

21. **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.

- 21.1 As we have stated previously in our response this means nothing legally. It has been proven and tested in Courts that guidance when issued is just that guidance and not law.
- 21.2 The impact would be minimal if the Council continued in its current way of only using guidance as that and not setting any policy purely on what the guidance says, having full and frank consultation and open discussion on policy is the way forward with guidance in the background to the discussions.

22. **Provisional proposal 22**

Reformed legislation should refer to "taxis" and "private hire vehicles" respectively. References to "hackney carriages" should be abandoned.

- 22.1 The word Taxis has become synonymous with any small vehicles that takes passengers for a fare. The removal of the phrase "Hackney Carriages" would cause more confusion for the public.
- 22.2 It is our opinion that the phrase "Hackney Carriage" should remain in all legislation and correspondence etc.

23. **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?

- 23.1 I believe that the word taxi especially on private hire vehicles is confusing to the public. This is paramount on vehicles of the same make and model that are used around the country as both private hire and hackney carriages. In Sheffield this may be less of a problem but the main sign on a hackney carriage in our City is the illuminated orange sign that says TAXI on it, we also have those words on the sides of our “eurocabs” to help distinguish them from private hire vehicles of similar appearance. Cab is a different aspect and again this is down to the perception of the public and to the public as a cab is a cab etc what ever system that vehicle is operating under.
- 23.2 It is our view that we should be making it easier for the public to understand and therefore suggest that the word “taxi” and “cab” should not be allowed in this scenario.

24 **CHAPTER 15 – A REFORMED REGULATORY FRAMEWORK**

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements.

- 24.1 Looking at the consultation paper from the law commission this is slightly misleading as it relates to general matters and not physical safety matters it talks about setting national standards for hackney carriage vehicles, but allows for additional higher standards that may be imposed by the local council. It mentions that the Council would retain the ability to set fares.
- 24.2 Minimum standards are fine but can set dangerous precedents. Any minimum standard must be backed up within the legislation so that it protects the Local Authorities that wish to have higher standards for what ever reason they choose. There would have to be no appeal provision in the legislation against a Council who have democratically decided that the standards they require on a local level. We must keep the local powers for local people to decide what they want in their area
- 24.3 Local standards should be well advertised and documented and reviewed on a regular basis (3 years) for reasonableness, and adapt to changes in manufacturing of vehicles, safety features, economic and green issues.
- 24.4 If minimum standards were introduced then the Council may have to review all its specifications and also any policies on the age limits, emissions, vehicle test regimes, and also testing of applicants.
- 24.5 If Councils set higher standards as allowed by the legislation then if the legislation is weak and does not specifically protect a Council from a challenge on those higher standards then the Council may face many legal challenges to its vehicle standards, or policies. It may be in certain cases that it is a judicial review that is needed and not a magistrates court appeal. This will depend on the legislation and how it is written. Judicial reviews cost far more than a magistrates court appeal. Once a decision by a Court finds that the Local Standards are “too high” (unreasonable) then that would affect all other vehicle applications and specifications from that day onward.

25. **Provisional proposal 25**

National safety standards, as applied to taxi services, should only be minimum Standards

- 25.1 This has been answered in the above paragraphs. Any national standard has to be a minimum standard and we MUST maintain the option of local choice.
- 25.2 Standards that are not minimum standards will mean that many local authorities across the Country will suffer a severe reduction in local standards and public safety.
- 25.3 We support the possible introduction of national minimum standards but only if there are powers within the legislation to increase those standards locally to achieve what is required locally by elected members and local people.

26 **Provisional proposal 26**

National safety standards, as applied to private hire services, should be mandatory standards

- 26.1 We are totally against this proposal as it would mean that a local authority would lose local control. We must ensure that powers are devolved locally. It is essential that locally elected members and the residents of Sheffield are allowed to decide the standards we want in Sheffield.

According to the paper this will cover all aspects of private hire both operators and drivers.

- 26.2 In Sheffield this would lead to a significant reduction in standards and public safety including the possible loss of our locally set training standards for applicants. It may also lead to losing parts of the application process such as topographical test for private hire drivers.
- 26.3 This would to me mean that hackney drivers would appear to be the elite of drivers and the perception of a private hire driver would be second rate drivers that are not of the right standard to become a "real taxi" driver. We would propose that you should be looking at higher standards rather than down grading the work undertaken locally by authorities and trades.
- 26.4 This would lead to a two tier system for drivers as well as vehicles. It would involve a major amount of work on software packages. We would require a two tier monitoring system that would clearly define the private hire drivers from hackney carriage drivers.
- 26.5 You would also need to look at allowing conditions to be put on a hackney drivers licence as currently this is not legal right to you cannot have conditions on a hcv drivers licence. These currently have to be governed by byelaws.

27. **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.

- 27.1 “See above” the same principals apply on this proposal as proposal 26. This is a major lowering of standards for drivers, and considering that the applicants would not be required to undertake any test prior to getting into a vehicle should never be permitted. Members of the public who use these vehicles want some assurance that the driver knows what they are doing.

28. **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?

- 28.1 The simple answer is yes. The current situation is that a council may place conditions on a private hire vehicle licence stating what type, size and location any signs appear on or in the vehicle.
- 28.2 We do not support any proposal that removes local control for local people. This would extremely detrimental to a city like Sheffield that has worked extremely hard to maintain high standards and to work in partnership with the trade. The localism principle must be maintained throughout the new legislation.
- 28.3 This change would make it very hard to locate and identify vehicles when on enforcement duties. Also if you mix this with proposal 20 by allowing any driver to drive when not being used a licensed vehicle it will lead to the vehicle being unidentifiable to officers or the public.
- 28.4 City and Towns with event venues or airports would suffer even more as they may not identify out of town vehicles that may be there on legitimate business, and unlicensed vehicles that may arrive for pick ups or set downs.
- 28.5 It is essential to maintain the ability for local authorities to set local standards.

29 **Question 29**

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

- 29.1 This would be virtually impossible there are so many different standards around the country. These are set to meet local needs, national standards can not achieve this on their own.
- 29.2 A minimum standard would either be too high or too low for many different Authorities and would cause major problems within those Authorities. This would just be unworkable and unsatisfactory.
- 29.3 I must reiterate what I have said several times in this response. National minimum standards would be acceptable as long as the

legislation gave power within the legislation to local authorities to set their own higher local standards.

30 **Question 30**

Should national conditions in respect of driver safety be different for taxi services compared with private hire services?

30.1 It is commonsense that these should be different if the vehicles they use are different. If a hackney carriage is a purpose built one as we have in Sheffield then the specification and local conditions can aid driver safety by use of partitions, intercoms, lighting and signage these are all part of the specification of a vehicle that is purpose built as a hackney carriage.

30.2 In private hire vehicles imposing standard conditions across the large spectrum of vehicles is extremely difficult and would be impossible to have a single national driver safety condition that would cover all eventualities.

32 **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.

32.1 This again is confusing as what is meant by safety and safety of whom, the driver, operator or passengers or all three.

33.2 We do not support this proposal if there was a safety issue but the Secretary of State had not set a standard for that particular issue then that would lead to confusion. Drivers would then put anything in the vehicle or the issue would be ignored, and the licensing service would be powerless to do anything about it.

33.3 Once again the power and benefit for local standards and local decisions is clear to see.

34 **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.

34.1 If it is decided to impose National Standards then yes they should be subject to an extensive consultation process.

34.2 As stated in proposal 31 above we are against this proposal.

33. **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?

33.1 A technical advisory panel, however, this would depend who is invited to be on that panel and what legal sway the panel will have.

34 **Provisional proposal 34**

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

- 34.1 This is a must to retain the high standard of vehicles expected by members of the public / users of this service. We fully support this proposal. The power to set higher standards must be included in the main body of the legislation to provide the proper legal powers..
- 34.2 The Law Commission need to be referred to and look at the localism bill where it is the Governments intention to bring a lot of areas of regulation back to the local people to administer. Not being able to retain a power to set your own local standards would fly in the face of this idealism of local control.

35 **Question 35**

Should there be statutory limits to licensing authorities' ability to set local taxi standards?

- 35.1 Guidance to local authorities is always beneficial and that is clear to see from the use of the guidance issued under the Licensing Act and Gambling Act respectively. We would propose that government do not use words such as reasonable as this is always confusing to both applicants and elected members. Such wording also results in legal challenges over what one person
- 35.2 Guidance notes on what can be considered in local terms as an enhancement to the National Standards would be beneficial to local authorities.

36 **Question 36**

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators?

- 36.1 Yes without a doubt. Any erosion of this power would lead to the local authorities having no powers at all over the drivers they licence.
- 36.2 There are no powers currently to impose conditions on a hackney carriage driver's licence. The Hackney Carriage drivers are governed by bye laws. This is an area we feel should change under these new proposals. We would propose that the new legislation allows local authorities to impose individual conditions on ALL types of license that we issue.
- 36.3 This would enable authorities to impose conditions on hackney carriage drivers licences, that could be different to that of a private hire drivers licence and vice versa. Licence specific conditions to deal with individual issues that arise at different times. There are conditions needed on individual licences, for example a driver who commits certain misdemeanours could have added conditions, such as presenting documents within certain periods, keeping records of journeys etc.

37 **LICENSING AUTHORITIES WORKING TOGETHER**

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?

- 37.1 This is an excellent idea and promotes partnership working across local authorities. We feel that this should be formulated in the way like that of a police officer whose powers are nationwide although they work in a specific area / police force.
- 37.2 The power of a licensing officer should be the same. An officer should be able to deal with any PHV, HCV and Driver whether they are the issuing Authority or not. We would propose that this is worded in a way to allow an Authorised Officer of a Council to be able to approach and deal with vehicles and drivers that are not licensed by their particular Council but only whilst in their own Council boundaries. This would mean that “out of town” vehicles and drivers could be inspected and spoken to and action taken if needed by officers of the Authority that the vehicle and driver are in at the time.
- 37.3 If national minimum standards for vehicles are formulated then the officer should have the power to suspend a vehicle licence if in their opinion the vehicle falls below the minimum national standard. This can then be reported to the issuing Authority for them to deal with.
- 37.4 Having a statutory footing places a responsibility on all authorities to deal with the issues responsibly and should remove the issue where some authorities do not regard taxi licensing as a priority and put no real effort in to enforcement or administration. A statutory duty to do so and to accommodate the requests and actions of other Authorities places a responsibility upon them.

38 **Provisional proposal 38**

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting.

- 38.1 This is a sensible proposal in this modern and difficult era of financing services. The option of shared service may be of significant benefit to many local authorities. This would be of particular benefit in rural areas where there is a number of authorities that cover a wide area but have little or no taxi, private hire services.
- 38.2 You will need to guard against the culture and belief that it is just an option for the larger authorities to take over smaller neighbouring authorities.
- 38.3 This is where local standards are essential and to have the ability in the legislation for local authorities to introduce standards higher than the National Standard.

39 **Provisional proposal 39**

Licensing authorities should have the option to create, or remove, taxi zones within their area.

- 39.1 This is something that we have never had in Sheffield and something that officers and elected members in Sheffield have not experienced.
- 39.2 If the lifting of limitation on the number of HCV a Council may licence is recommended by this review then I believe the ending of zones should also be part of the review. If limits are a bar to someone earning a living then “barring” that person from a certain area of an Authority then must fall into the same category and is a similar argument against restriction of trade.
- 39.3 Enforcement of zones is tricky and relies on the knowledge of officers and has a knock on effect that there may be the need for plate and licence colour schemes to show which areas and zones a hcv can operate in.
- 39.4 We would propose that taxi zones should are not introduced into the new legislation and that Local Authorities must remove existing zones.

40. **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?

- 40.1 Enforcement of this type of licence is extremely difficult, when is a person at work, when is that person doing a personal pick up of friends and family.
- 40.2 We are against including any powers in the new legislation to issue peak time licences. We believe in allowing the trade decide when and where they want to work and numbers of licences will control them selves.

41 **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

- 41.1 The operator’s conditions would have to be altered to make them keep proper records of any vehicle and driver they use within their business and I believe that should be whether the vehicle is a hackney or private hire vehicle.
- 41.2 If this was to happen it will be open to significant abuse by operators who will use unlicensed drivers and vehicles and claim that they are licensed within other areas.
- 41.3 This proposal would be complicated further if drivers decided to work for more than one operator, what signage are the obliged to show and when? Who do they report to, who do the public complain to if a job is completed by a Barnsley driver but was taken by a Sheffield Operator?

- 41.4 Local Authorities may well compete for the business of licensing operators especially if they are allowed to use non locally licensed vehicles, and especially if the fee for an operators licence differs greatly from one authority to another.
- 41.5 It is opinion that this should not be part of the new legislation as it raises more questions than answers and would create a major problem with control and enforcement.
- 41.6 We would propose that operators can only operate vehicles and drivers from the authority in which they are licensed and based. We would like to see stricter controls in this area not a relaxation.

42. **Provisional proposal 42**

We do not propose to introduce a “return to area” requirement in respect of out of- area drop offs.

- 42.1 Not a problem with this proposal currently in Sheffield have no return to area/base policies or conditions.
- 42.2 As with other parts of this review this becomes more complicated if other proposals go forward, especially proposal 41 above allowing drivers to work for another areas operators.

43 **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.

- 43.1 This raises many issues, there are differing opinions on this across the spectrum of local authorities, officers, trades and service users. If we are to regulate the number of hackney carriages then I can see the need to regulate the maximum fares that can be charged by a driver and the need for a meter to reflect this within the vehicles.
- 43.2 This particular issue of fares is probably one of those areas that come under the comment of “because we have always done it that way”. Council’s do not and can not set maximum fares for private hire vehicles, operators and drivers to charge and why not because its the belief that market forces will protect the public from rising prices as there is no limit on the number of private hire vehicles that can be licensed or the number of private hire operators that can be licensed.
- 43.3 If there is no limit allowed on hackney carriages then why not treat them as we do the private hire provision and allow them to set there own fares, that are advertised in the vehicle or on the near side window facing outwards.
- 43.4 There is nothing to prevent hackney carriages drivers or an operator of multiple vehicles advertising the fact that they are the cheaper vehicles and under cutting the opposition. This of course could cause confusion, conflict and ill feeling on the ranks when the customer chooses as is currently their right the hackney that is the cheapest rather than the one at the front of the rank.

- 43.5 We feel that a more suitable proposal would be to have a maximum fare by mileage that all vehicles (private hire and hackney carriage) that are used for the purpose of hire and reward can charge within a local Authority area and that the maximum fee is set by that Local Authority.
- 43.6 This would be less confusing for the travelling public as they could find out the cost of travel in the City via the internet, this would also allow for better provision of information to the Inland Revenue on what earnings a driver may earn for the mileage they do. They would then have to prove that they charge less than the maximum allowed to not pay the full tax on journeys they have carried out for a fare.
- 43.7 It would still leave operators the ability to charge less if they wish and ultimately they would be judged on customer service alone rather than price.

44 **Question 44**

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

- 44.1 We believe the simple answer to this is no, if the meter fare is fixed then there is no need to charge extra. The fares are decided democratically and are set to provide a suitable income to the driver and should always be considered in an open meeting and advertised to the general public where a right of objection is allowed. This takes into consideration the financial implications, running costs and overheads of a driver.
- 44.2 There is no difference with a pre-booked journey, if limitation is lifted then there is going to be more and more hackney carriages working on a radio circuit and being used as private hire vehicles.
- 44.3 If the proposal to allow immediate pre-booking as per proposal 19 and considering pre booking by technology, what is then classed as pre-booked could a hackney carriage vehicle at a rank be considered pre-booked by the customer in the queue at that rank, the driver is guaranteed a fare they just dont know where to?
- 44.4 It also raises the question of whether a taxi marshal can be considered a booking agent for the hackney carriage vehicle therefore the driver in both these cases could charge more than the metered fare!
- 44.5 We feel that it should remain a legal requirement and become a legal requirement in the new legislation that where a meter is fixed in a vehicle then the driver has to use the meter for any journey that is for reward where ever that journey commences and finishes, and the fares charged have to be that on the meter and set by the Authority that issued the licence for the vehicle and calibrated that meter when the vehicle was tested by them.

45 **CHAPTER 16 – 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?

- 45.1 We are of the opinion that the standards for fit and properness should be set out in the primary legislation and should be of a high standard. We have set high standards for our drivers to attain in Sheffield and would not like to see any erosion of these standards and would be happy for the Country to follow Sheffield’s lead.
- 45.2 Any primary legislation that covers this should include the details of training levels required to have been achieved prior to making an application to any local authority and these should be transferable skill sets to allow migration of drivers.
- 45.3 This is the chance to actually remove the wording fit and proper and replace with a better wording that sets out what is meant by being fit and proper and what an applicant has to do to prove his/her fit and properness to be eligible to be licensed for such work.
- 45.4 The secretary of state should have the powers to amend the conditions and requirement where and when necessary to meet new requirements and economic or other developments that may change, over a period of time. They need to be able to act on new legislation, European law that may impinge on the current legislation.

46 **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)

- 46.1 This is the current situation there is no fit and proper test that can be seen in current law that allows the refusal or revocation of any vehicle licence on the grounds that the person who owns the licence is deemed unfit.
- 46.2 Our view is vehicle owners and licence holders should be fit and proper or what ever is deemed appropriate in the new legislation to replace the wording fit and proper.
- 46.3 A local council should have the power to refuse, suspend or revoke vehicle licenses on the grounds that the proprietor or licensee is deemed unfit to hold such a licence. In many city’s there are vehicle owners/licensees that hold no other licenses, due to their offences. These people should be able to be brought to account or refused licenses if in the past they have committed misdemeanours or breached conditions of licence.

- 46.4 There is a lot of money made in this area and not permitting checks on the individual will allow and increase the amount of criminals that enter the trade and bring the trade down as a legitimate business, money laundering would be easy with no checks on people within the business.

47 **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?

- 47.1 It is essential that these be included within the general powers of the Secretary of State to allow a quick response to changing vehicle specifications and modifications which may impinge on set standards for vehicles.
- 47.2 We would like to reiterate that these should always be minimum standards set and allow higher local standards to be set above the minimum if necessary by local authorities.

48 **Provisional proposal 48**

Operator licensing should be retained as mandatory in respect of private hire vehicles.

- 48.1 Yes it is essential with regards to public safety that we maintain control of private hire operators. We would also want to retain the fit and properness test for operators.
- 48.2 They may wish to allow transfers of an operator licence which is currently not possible under the legislation. Any person who wishes to have a licence transferred in to their name should have to comply fully with the fit and proper criteria as above.
- 48.3 This may cause problems with monopolies allowing the bigger companies to buy out the smaller competition. However, this does already happen.

49 **Question 49**

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

- 49.1 Our view is yes they should. If a hackney is to be allowed as is the current situation to undertake private hire work then whilst doing that work they should have to adhere to all private hire rules and regulations.
- 49.2 They would have to document which work they carried out as a private hire vehicle, keep records of journeys, bookings dates and times customer names and pick up and destinations. This would allow Local Authorities to deal with complaints and give the passengers better protection.

- 49.3 If we are to have a cover all law then any operator or vehicle & driver hire services should have to be licensed and traceable, and should have to comply with set standards that they have to maintain what ever type of vehicle they wish to use for the work.
- 49.4 There is really no difference to the work that a private hire operator does to that of a hackney carriage operator for the purpose of pre-booked work.
- 49.5 We fully support this option for the reasons of passenger/public safety and complaint investigation.

50 **Provisional proposal 50**

The definition of operators should not be extended in order to include intermediaries.

- 50.1 This is a difficult question as intermediaries are many things to many people and can be touts by another name.
- 50.2 If there are new technology developments that helps a persons business then we cannot see a reason why this type of system should not be included, such as internet bookings etc. Why would the internet provider need to be included in the operators licence or legislation, as long as the operator declares on his application the way in which they will engage in bookings and the results and records are open to inspection by Authorised Officers.
- 50.3 This would allow partnerships to develop between providers possibly from city to city and would aid such things as door to door services for train, air and possibly ferry/cruise services. Where a company adds a service for its customers and takes a booking for a vehicle and driver that is provided by a local operator with whom they have a business partnership, this at present would be and is making a provision for a booking and would require the primary service provider to have a operators licence within the area of where the booking was made. (Call centre).
- 50.4 A person who acts on street for vehicles should be part of the operator business and should be identifiable to the public as to what and who they are representing. This has to be there to protect the public and allow fair trade amongst the providers of any taxi service.
- 50.5 It should still remain against the law for any person to tout for private hire and hackney carriage services.

51 **Question 51**

Should "fit and proper" criteria in respect of operators be retained?

- 51.1 We have answered this in our answer to proposal 48. Fit and proper should be maintained and improved upon in terms of explanation of what is meant by fit and proper.

- 51.2 This should include mandatory restrictions on people found unfit in any area to hold a licence to apply or hold a licence in England and Wales. It should be a criminal offence to withhold information or to apply for a licence if you have been subject to a revocation of a licence within the last 10 years.
- 51.3 Bankruptcy and Business history should also be considered in the fit and proper testing of applicants. The business of private hire operators and hackney operators has to be legitimate and customers should be confident in using these services as much as when using a garage, or any other professional service.
- 51.4 The service of providing transport in this way should not been seen as it currently is that it is which is run by undesirables, crooks and people of low moral fibre.

52 **Provisional proposal 52**

Operators should be expressly permitted to sub-contract services.

- 52.1 In the 21st Century and how business is opening borders I cannot see why this is not allowed. However, it must be contained within certain parameters.
- 52.2 The customer should be fully aware prior to the completion of the booking that the operator is sub-contracting to another licensed operator. The customer should also be aware at the outset of who that operator is, where they are based and should have the right to cancel if they do not wish to have the sub contractor provide that service at no cost to themselves.
- 52.3 The Operator should keep a list of sub contractors they use and must keep records of the licence details of the sub-contractor and make these available on request to an authorise officer or police constable from any Authority with an interest in that booking. Failure to keep such records should constitute an offence.

53 **Question 53**

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply.

- 53.1 Our view is yes and this is answered above. There is no difference between that of a "single vehicle" private hire operator to a single hackney carriage driver using his vehicle for the purposes of private hire.
- 53.2 We believe that all hackney carriage drivers should be required to keep a record of all journeys they do for reward. Such records should have the pick up point, drop off point and cost of journey (metered fare). It would not have to include name of passenger or amount of payment if that is different to the fare on the meter such a tips etc..
- 53.3 This would allow for better controls of vehicles and investigation of complaints. It would also allow the inland revenue to receive more appropriate information and therefore impose the relevant tax for the work undertaken. This would also protect the driver from receiving un expected tax bills which use a current average system.

- 53.4 It would be extremely beneficial if meters had the ability to record journeys and costs so these could be used to rectify this area of concern.
- 53.5 There are meter's on the market that allow printed receipts and produces daily takings and readings, similar to a cash register. We feel that this would be a positive step forward to impose a mandatory condition in the legislation to install such meters.

54 CHAPTER 17 – REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers.

- 54.1 This is very emotive subject amongst both the trade, licensing officers and elected members that have to regulate the trade. It is also seen in some areas as a very political hot potato that no one wants to touch.
- 54.2 To look at this objectively we must not take into consideration the consequences of any decision on the welfare and earning power of current licence holders. Therefore, looking at the facts alone, quantity controls by local authorities are not common place. There are very few if any other pieces of legislation that allow local authorities to control the numbers of a certain type of business. This particular government are looking to remove barriers to business and the start up of businesses and we have to remember that a hackney carriage vehicle is a business.
- 54.3 We have to consider why do we control the numbers of hackney carriages within the local area? We do not control the numbers of private hire vehicles. There are many of questions asked and never really answered on this subject. However, the general principle behind the proposal is that market forces will dictate the numbers.
- 54.4 When finalising the proposals it may be worth considering similar powers to those given in other recent legislation around saturation policies.
- 54.5 Another argument on this issue is that now we are in the 21st Century the idea that an area of work “profession” is protected in such a way. Such protecting of income and jobs can not be fair in these modern times and this is the true effect of limitation.
- 54.6 We also have to consider the question of why should taxi driving be a closed shop for owners and licensees which in turn causes a black market. This becomes difficult for people to overcome to get into the business creating cartels of licences/vehicles and plates/licences that have been on vehicles for a long time being worth thousands of pounds to the owner.
- 54.7 What are the benefits to a Council if limitation is removed, it has already been proved that it improves the quality of vehicles on the road and it also brings an improvement in passenger facilities and safety standards. Generally the newer vehicles are better on emissions and therefore better on the environment.

- 54.8 Hackney carriages are small individual businesses but unlike a static businesses they need to have somewhere in the city for their vehicles to go and trade from. Can local authorities provide enough spaces at ranks and safe places to install new taxi ranks.
- 54.9 When you consider buildings that are available to accommodate businesses, once they are filled then no more businesses can be accommodated, we don't just keep building more premises. It is a totally different consideration for hackney carriages, however, we only have limited space for vehicles on the roads, parking / waiting and ranking areas are very limited within City Centres. Adding more ranks is not a real answer to this as they currently take a long time set up and there is a shifting population within areas and some ranks are rendered unused as places close or trends move.
- 54.10 There is also the Green issues as more and more vehicles added to the mix brings with it the problems of emissions and growing environmental problems. Councils now have to manage emissions and are legally bound to try and reduce emissions and bring their carbon emissions down year on year.
- 54.11 We are in a position of considering the two sides of an argument and it will be no different for those that ultimately consider the new legislation. If limitation is to be allowed why limit only Hackney Carriages, is this not bias? Should private hire vehicles be subject to limitation? If green and space issues are the major points of concern for limitation then surely limitation should cover both types of vehicle.

55 **Question 55**

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

- 55.1 There would be an initial surge of applications and a significant increase in hackney carriage vehicles, which would in turn cause an initial increase in workloads.
- 55.2 Many of the issues are covered in our answer to question 54 above.

56 **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?

- 56.1 If the restrictions on numbers are lifted then undoubtedly there should be some transitional period for this. We would also like to see national conditions on the age and type of vehicle that can be used. For example, London Type Taxi Cabs, Wheelchair Accessible Vehicles only, under 5 years of age or less.
- 56.2 It would also be beneficial if the new legislation imposed restrictions on individuals having multiple ownership of vehicles ending the cartels. If this was agreed then we would need to regulate who and how transfers of licenses can be monitored.

- 56.3 Currently there is no legislation that covers who a hackney carriage licence can be transferred to and this needs to be dealt with in the areas mentioned before in this consultation that brings in the fit and proper tests for licensees. This should cover vehicle licence transfers as well.

57 **CHAPTER 18 – 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.

- 57.1 Our view is there is not a need to have a separate licence category.
- 57.2 The conditions of a drivers licence should have some reference to the carriage of passengers with disabilities and the service that any person should expect, this should be part of the legislation as it is now, and it is illegal for a driver to discriminate against people with disabilities as we all are aware.
- 57.3 The new legislation should support the Equalities Act regarding accountability of drivers who discriminate against people with disabilities.
- 57.4 There should be a moral duty on any Authority to provide adequate provision for disabled passengers and to make provisions for the loading and unloading of wheelchair passengers at ranks.
- 57.5 Legislation should place a duty on all Councils to consider the need for access of taxis when considering major building projects especially those of a commercial nature. Too many buildings especially within the leisure industry which attract taxis never consider this when the initial plans are submitted for planning consent. Legislation should allow Councils to dictate the need for “taxi spaces/ranks” to be incorporated into any new commercial and leisure development.

58 **Question 58**

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards?

- 58.1 We view that this would be a problem and illegal currently. We can only charge a fee to recover the cost of administration and grant of a licence.
- 58.2 Local Authorities could face legal challenge if they were to have different levels of fees dependant upon the type of vehicle you want to licence. It would generally take the same amount of administration issue a licence for a WAV or non WAV and therefore you would be over charging which is illegal for the non WAV.

58.3 We believe that the new legislation should incorporate the allowance for local authorities to recover costs beyond the basic administration and grant of licences. Local authorities should have remits to offer inducements for such matters of new vehicles for old, low emissions vehicles, wheelchair accessible vehicles etc.

58.4 If the legislation changed the way the Councils can recover costs and what they can recover costs for, Then yes we do think that being able to offer incentives would be a good idea and help to improve the licence fleet.

59 **Question 59**

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

59.1 The problem that many areas face with this is the lack of private hire vehicles that are wheelchair accessible, there are many areas that have WAV vehicles as hackneys that are available for instant hire at ranks, and flagged downs.

59.2 In areas like Sheffield where we have 100% WAV hackney carriage fleet. However, there is little or no private hire vehicles available with wheelchair access. Therefore disabled users have to pre plan their travel arrangements they cannot decide at the last minute to head out, and phone a private hire vehicle operator.

59.3 There may be some way of adding a condition into a private hire operators licence condition that they have to offer disabled access vehicles as part of their service. This could either be hackney carriages that are on the radio circuit or private hire vehicles that are wheelchair accessible.

59.4 If question 58 is answered and the law changes to allow incentives then these could also be offered to private hire vehicles and their owners to encourage them to purchase and use WAV private hire vehicles.

60 **Provisional proposal 60**

We do not propose to introduce national quotas of wheelchair accessible vehicles.

60.1 We have known for many years that quotas of this nature would not be workable and would never come into force. These matters can be tackled in other ways and have been mentioned before in this response. Things like minimum standard of entry vehicles and making any vehicle that now enters the hackney carriage trade should be a WAV, again there is resistance to this especially in areas that have mixed fleet of hackneys.

61 **Provisional proposal 61**

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training.

61.1 In Sheffield we have introduced this and have a BTEC course as standard entry level in to our trade we would see this as a must to be taken up Nationally, pre entry training for the trade should be become mandatory.

61.2 Training is either weak or non existent in this area of work. The standard of training is hit and miss and the trade needs to have a nationally recognised certificate which is transferable, and is the minimum needed to make an application for a licence anywhere in the Country.

62 **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.

62.1 This is something we already do in Sheffield and bringing it in as a national standard would be a huge step forward. The enforcement side of this needs some teeth, such as failure to display such information should have some consequences for the licensee.

63 **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?

63.1 This would need strong legislation with some teeth to deal with the offenders. Proof of failing to stop would be the hardest thing to resolve. Drivers conditions need to reflect that and therefore we need as mentioned before the ability to place conditions on a hackney carriage drivers licence as well as those of a private hire driver.

64 **CHAPTER 19 – REFORMING ENFORCEMENT**

Question 64

Should authorised licensing officers have the power to stop licensed vehicles?

64.1 We fully support this proposal and it is something that licensing officers in appropriate circumstances and in marked vehicles or uniforms should have the power to do.

64.2 Officer safety would have to remain the priority of the employer. But with licensed vehicles an authorised officer should have the same power as that of a police officer.

64.3 This power should be for any licensed vehicle wherever that vehicle is licensed from.

65 **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”.

- 65.1 Touting is currently the only arrest able offence within the legislation and this power with the police should remain.
- 65.2 This though is contradictory if you lessen the conditions on private hire operators and what they are allowed to do, and where they are allowed to advertise. Would a person handing out flyers advertising the instant access to a private hire vehicle be a TOUT would a person walking with mortar board type advert on them – would that be touting.
- 65.3 There doesn't appear to much more that can be done to address this problem accept maybe making it legal but with very tough conditions and then making the penalties for offences or non compliance with the conditions tough and meaningful.
- 65.4 If you make it legal then making a tout were identification badges and uniforms make them advertise the costs of the service up front prior to users getting in the vehicles. This works abroad at airports and train stations, it may be the way forward here. It would also be beneficial to the local authority as they could administer the system and make charges for a touts (booking agents) licence.

66 **Question 66**

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

- 66.1 This may be desirable only on strict guidelines similar to those for clamping companies. There needs to be defined reasons for impounding or clamping of licensed vehicles. This has to include the identification of the driver, and must include the road worthiness of the vehicle.
- 66.2 As a Council we have to consider where these vehicles would be kept whilst impounded. Impounding vehicles is a costly exercise and the local authority would need to be able to recover fully the cost of impounding a vehicle entails, also they should be allowed to recover an administration charge.
- 66.3 There would also need to be something in place to dispose of vehicles that remain impounded and unclaimed, some time limits need to be set on the length of time a Council has to “save” a vehicle for collection by its licensee.

67. **Question 67**

Should licensing authorities make greater use of fixed penalty schemes and if so how?

- 67.1 There are currently no schemes available to officers in taxi and private hire licensing.

67.2 Introduction of fixed penalty schemes would be welcomed only if the monies recovered by the notice stayed within the licensing service and particularly stay within the taxi licensing services and used to off set the need to raise fee's year on year. This would mean that the misdemeanours by others would aid the law abiding drivers and licensees in helping keeping costs down.

67.3 There would need to be national guidelines of the charges for a fixed penalty notice.

67.4 The appeals procedure and the procedures and penalties for none payment or refusal to accept a fixed penalty need to be set out in the legislation.

68 **Provisional proposal 68**

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

68.1 We have identified this area of concern earlier in this report many times. Licensing officers powers should be the same as a police officer in and their powers are transferable across boundaries and city borders. And especially when the officers is within their own authorities boundaries they should be allowed to enforce national standards and powers over "out of town" licensed vehicles.

68.2 If proposal 67 is adopted, then the fixed penalty notice issued should be of a national standard (similar to the police FP for driving offences), This then can be sent by the issuing officer to the Authority who issued the licence to the driver or vehicle and they can then deal with the matter, the monies would remain with the licence authority that issued the ticket as they have completed the enforcement.

69. **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?

69.1 Our officers have stated that this is something that would be welcomed and must be introduced by new legislation. The best way of achieving this is to have national minimum standards and then if a vehicle or driver was below the national minimum standard an officer could take action and suspend a licence until at least the minimum standard was achieved. Another way would be for a driver or the vehicle to be duty bound to carry the appropriate standards document issued to them by the licensing authority.

69.2 The officer should then be obliged by the legislation to make a full report to the issuing licensing authority of the reason for suspension.

69.3 This should be done in a uniformed way around the Country and maybe the introduction of national suspension notices similar to the VOSA prohibition notice could be introduced.

69.4 The power to revoke a licence that you have not issued is not needed.

- 69.5 The immediate suspension and report to the issuing authority should be enough and the issuing authority should retain the only power of revocation.
- 69.6 If this is part of the legislation it should also introduce the power of an officer to remove identifying features from the vehicle such as the licence plate, this could be then returned with the report of the incident to the issuing authority.
- 69.7 This is needed for areas that have large entertainment venues, race courses, airports, festivals, sporting arenas, anywhere that would attract a customer base from outside of the region or city.

70 **CHAPTER 20 – 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.

- 70.1 We agree that this is a sensible approach to this. At present the appeal is open to any aggrieved party, which can mean literally any citizen of the city making an appeal against a decision.
- 70.2 This is a little known process and does not get well used. Appeals are usually by the aggrieved person and in Sheffield there has not been an appeal on refusal, grant or renewal by any one other than the applicant in the last 15 years.
- 70.3 This would remove the right of appeal against a decision to renew as the applicant would have achieved their goal of gaining a licence and it would remove the right of a person who was aggrieved by that renewal appealing against the Councils decision.
- 70.4 The appeal against conditions imposed on the grant of a licence would need to remain.

71 **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.

- 71.1 Our view is that this would be a complete waste of time, unless all authorities had to delegate powers to officers to allow them to refuse, and revoke licences. This is currently not the case in most Councils and is not the case in Sheffield the right of refusal and revocation remains with an independent licensing committee.

Most authorities have a second tier usually elected members who have the delegated authority from full council to administer licensing duties. If this came in and powers were not delegated to officers, it would mean the duplication of duties and re-hearings.

- 71.2 Some areas may not have enough Councillors to provide a new committee to revisit the original decision.

- 71.3 Timescales would have to be imposed as to not allow Council to leave decision open and the applicant waiting unreasonable times for a decision.
- 71.4 Would the appeal be a full re-hearing of the original hearing, would new evidence be allowed at the appeal as is the case currently?

72 **Provisional proposal 72**

Appeals should continue to be heard in the magistrates' court.

- 72.1 If delegated powers are not granted to high ranking officers then yes appeals should stay with the Magistrates Court. The new legislation should state that the applicant should have to prove that the Council on the evidence present made an error in judgement, and a wrong decision.
- 72.2 Magistrates should if undecided always side with the original judgement of the Authority. The onus should always be on the applicant to prove that they are fit and proper (or what ever new description is uses) and not on the Council to have to show why they think they are not fit and proper.
- 72.3 Maybe the introduction of the appellant has to supply further or new evidence in their favour before a magistrates court would be able to overturn an original decision by elected members (not officers). The onus would then be on the applicant to supply something to the Court and not just "appeal" ?

73 **Question 73**

Should there be an onward right of appeal to the Crown Court?

- 73.1 Our view is that you have to think about this very carefully as the easy answer is to say no the appeal process should end at the Magistrates Court stage. You have to remember that officers and an Authority can and have used this appeal process for own purposes. When this has been used in Sheffield more case have been proved and won than lost. It is a very expensive way to go and is used very lightly by both parties.
- 73.2 You have to consider that Magistrates are lay people and may have no real understanding of licensing matters when considering the appeal.
- 73.3 This may depend on many things how many levels of appeals will there be, If you have Officer, Committee and then Magistrates Decision that have all agreed and made the same decision is there a need for a further level of Appeal.
- 73.4 If as is currently the case (2 levels) then there may be a case for keeping that extra level.
- 73.5 This also depends on how robust and watertight the new legislation will be to allow Councils to make decision on applicants which would leave them with little opportunity of winning an appeal.

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