

Taxi and Private Hire Car Licensing: Best Practice Guidance for Licensing Authorities

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FOREWORD



Taxis and private hire cars play an essential part in local transport networks, filling gaps in overall public transport provision, particularly for those without access to a car. For visitors to Scotland, taxi drivers will often be their first point of contact and can provide a positive impression of a friendly, professional and open country. Across Scotland, from major cities to remote and rural areas, they are an invaluable service for both residents and visitors. As well as providing an essential service, the taxi and private hire car industry also represents a major employer and a significant level of turnover in the Scottish economy.

Taking account of the importance of the taxi and private hire sector to the economy of Scotland, it is essential that it is regulated to the highest standards, that the public is protected from harm while using the service and the industry is protected from infiltration and targeting by organised crime groups and individuals. It is for these reasons that we must have a robust system of licensing for taxis and private hire cars which takes both local and national issues into account. Local licensing authorities, working with the police, are responsible for ensuring that we have in place a licensing system that not only serves local communities, but ensures that in doing so, only fit and proper persons are involved within the management, ownership and operation of this important business sector. This Best Practice guidance provides information on issues that officials within licensing authorities should take into account when designing and implementing their local licensing regime.

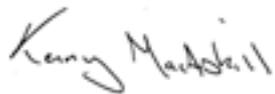
Responsibility for taxis and private hire car licensing has recently moved within the Scottish Government from Transport Scotland to the Justice Directorate. I know the importance of the industry and the excellent service it delivers 24 hours a day, 365 days a year. However, in my role as Justice Secretary, I am all too aware of the threat to businesses from serious organised crime and unfortunately the taxi and private hire sector is not exempt from the influence and participation of organised crime groups. To counter the threat posed by these groups, we require everyone involved in the licensing regime throughout Scotland to work together to produce a robust regime that can be effectively enforced to become a strong deterrent to serious organised crime groups. Not all areas will be affected by this issue to the same extent, but it is the responsibility of everyone to be aware of the risks and to do what they can to eradicate its influence.

We cannot expect a licensing authority to tackle this alone but there are valuable steps you can take that make it more difficult for criminals to make money out of the taxi and private hire car trade: from careful scrutiny of applicants through to enforcement measures to ensure drivers aren't boosting their earnings by illegally plying for hire. There are also important factors to consider when councils and other public bodies are procuring taxi services where licensing officials can support their colleagues to ensure lucrative contracts are not exploited by firms with criminal connections. No part of the process is insignificant. Tackling bad practice and criminal elements benefits the vast majority of reputable individuals and businesses

within the trade who are committed to providing an invaluable service to our communities.

Within the Scottish Government we are looking at the licensing regime for taxis and private hire cars as a whole to see where we can make changes that will make the trades as safe and efficient as possible. We aim to bring all drivers and firms up to the very best standards we have in evidence across the country. We will keep you informed as and when changes are being considered and implemented.

I would like to thank you for the work you do and hope you find this guidance helpful.

A handwritten signature in black ink that reads "Kenny MacAskill". The signature is written in a cursive style with a large initial 'K'.

Kenny MacAskill MSP, Cabinet Secretary for Justice

INTRODUCTION

The Scottish Government first published its „Taxi and Private Hire Car Licensing Best Practice for Licensing Authorities“ in December 2007. The guidance set out to offer best practice advice to licensing authorities on a range of issues relating to the licensing of taxis, private hire cars and their drivers.

In recognition of a number of legislative changes that have been introduced since publication of the 2007 guidance the Scottish Government undertook a review during 2011. The consultation invited stakeholders to submit views on a pro forma questionnaire on the usefulness of the original guidance, the amendments proposed, adjustment to that advice and views and suggestions about any other items that might be included in the final version. The consultation commenced on 23 March 2011 and the period for submission of responses was extended from 17 June 2011 until 15 July 2011. A summary of responses will be published separately.

This revised guidance seeks to update the advice offered to reflect legislative change having regard to the views of stakeholders in the consultation process.

Chapter 1 - SCOPE OF BEST PRACTICE

1.1. This best practice document does not seek to address the whole range of possible licensing requirements but focuses primarily on those issues that have caused difficulty in the past or have been highlighted as being of particular significance. That said, it is an evolving document and will be subject to periodic amendment to reflect changing and developing policy and concerns. We will inform licensing authorities when it is amended.

1.2. This best practice references a number of matters for which legislative responsibility is reserved to the UK Government. We have advised within the document as to where the (UK) Department for Transport specific best practice can be found.

1.3. Whilst seeking to promote best practice in relation to quality and safety we do not set out to offer interpretation of the legislation governing taxi and private hire car licensing. This is a matter for licensing authorities and the Courts. Licensing authorities will appreciate, therefore, that it is for them to seek their own legal advice as appropriate in regard to the exercise of their licensing powers.

1.4. As well as referring to this document and the governing legislation (Civic Government (Scotland) Act 1982), local licensing authorities should make use of the information in the Scottish Development Department [Circular 25/1986](#). Authorities will also be aware of more general duties they have under the Data Protection Act 1998 when they are handling personal information.

Chapter 2 - THE ROLE OF LICENSING

2.1. The Civic Government (Scotland) Act 1982 (referred to throughout as the 1982 Act) allows for local authorities to license taxis and private hire cars. In its preamble it states it is:

An Act to make provision as regards Scotland for the licensing and regulation of certain activities; for the preservation of public order and safety and the prevention of crime.

Within the Act there are specific roles for both the local licensing authority and the police in administering and enforcing the local licensing regime. The success of the regime depends on a constructive and positive relationship between them as well as effective engagement with the trade and customer groups.

2.2. A successful licensing regime will ensure that a safe, reliable and accessible service is available to the public when and where it is required, at a reasonable cost.

This outcome requires a number of factors to be addressed within the regime including:

- that the profile and size of the local customer market is known and understood to ensure the right number and type of vehicles are available at the right times;
- that vehicles are of a suitable type to meet the requirements of customers and are in good working order;
- that drivers are vetted and tested to ensure they are fit and proper, appropriately qualified to drive, and suitably trained to handle the variety of customer interactions;
- that owners of cars and booking offices are vetted to ensure they are fit and proper;
- that fare scales are reasonable and transparent and are regularly reviewed with relevant consultation.

This list is not exhaustive but is illustrative of the range of issues to consider. Underpinning any successful regime though is the need for robust enforcement.

2.3. It is, of course, good practice for local authorities to consult on any significant proposed changes in licensing rules. Such consultation should include not only the taxi and private hire car trade but also customers, local businesses/organisations (public and private) dependent on or affected by the trade and organisations with a wider transport interest (e.g. Transform Scotland). Again it is particularly useful to be aware of the profile of the local market to best target consultation, ensuring groups with particular requirements (i.e. due to a disability) are represented.

Chapter 3 - ENFORCEMENT

3.1. A successful licensing regime is appropriately and adequately enforced. Well-directed enforcement activity by licensing authorities benefits not only the public but also the responsible people in the taxi and private hire car trade. The resources devoted by licensing authorities to enforcement will vary according to local circumstances and frequent liaison between licensing authorities and the police in the shape of information/intelligence sharing will help authorities gauge the level and type of enforcement activity required. As enforcement activity is part of the licensing regime, it is recoverable through fees charged for licenses. It is therefore within the interests of the trade for them to be involved in any information gathering on enforcement needs in their area. We are aware that some authorities have successfully carried out joint operations with the police for example targeting known problem spots where instances of breaches of licensing have been reported.

3.2. Some local licensing authorities use enforcement staff to check a range of licensed activities (such as market traders) as well as the taxi and private hire car trades, to make the best use of staff resources. A visible enforcement presence will prove a useful deterrent against breaches of licence, for example illegally plying for trade and operation of unlicensed vehicles or drivers. It is recommended as best practice that enforcement activity is at least partly directed to the late-night period, when such breaches tend most often to arise.

Chapter 4 - ACCESSIBILITY AND THE EQUALITY ACT 2010

4.1. Responsibility for accessibility legislation for taxis and private hire cars is primarily a matter reserved to the UK Government. The provisions of the Disability Discrimination Act 1995 in relation to taxi accessibility have been consolidated and updated and are now to be found in sections 160-173 of the Equality Act 2010. Some of these powers are yet to be commenced (brought into effect) as explained below. Licensing authorities will wish to be aware that sections 161, 163 and 164 do not apply to Scotland.

4.2. The (UK) Department for Transport has recently advised that UK Ministers do not intend to commence section 160 (and therefore sections 162, 163 and 164). These sections essentially require all taxis to meet certain accessibility standards.

4.3. Licensing authorities wishing to make progress on improving the level of provision of accessible vehicles should consider the scope for developing accessibility policies using their powers under the 1982 Act, section 10(2). The Scottish Government welcomes the introduction of such policies and note that a number of authorities, using discretionary powers under the 1982 Act, have adopted a policy aimed at increasing the availability of accessible vehicles whereby only accessible taxis will be accepted for licensing purposes. In creating such policies it is particularly important to be aware of customer requirements within your area (i.e. prevalence of wheelchair users, visual impairment, other mobility requirements etc) and ensure your policy is appropriately tailored.

4.4. Different accessibility considerations apply between taxis and private hire cars. Taxis can be hired on the spot - in the street or at a rank - by the customer dealing directly with a driver; whereas private hire cars can only be pre-booked. It is important that a disabled person should be able to hire a taxi with the minimum delay or inconvenience, and having accessible taxis available helps makes that possible.

4.5. As regards section 165, the UK Government are still considering their commencement strategy. This section when commenced will impose a duty on taxi and private hire car drivers with wheelchair accessible vehicles to provide assistance to disabled passengers. The relevant duties are:

- to carry the passenger while in the wheelchair;
- not to make any additional charge for doing so;
- if the passenger chooses to sit in a passenger seat to carry the wheelchair;
- to take such steps as are necessary to ensure that the passenger is carried in safety and comfort; and
- to give the passenger such mobility assistance as is reasonably required.

4.6. The drivers of vehicles used to provide a local service ("taxibus") already have a duty to provide assistance to people in wheelchairs when so used. The provisions referred to above when implemented will extend the duties to drivers of taxis and private hire cars when in conventional use.

4.7. Section 166 (providing that drivers of designated taxis may apply for exemption from the section 165 duties) has already been commenced. An authority must issue

a person with a certificate exempting the person from the duties imposed by section 165 if satisfied that it is appropriate to do so on medical grounds, or where a person's physical condition makes it impossible or unreasonably difficult for the person to comply with these duties.

4.8. Section 167 when commenced will provide that licensing authorities may maintain lists of accessible vehicles for the purposes of section 165. Earlier (UK) Department for Transport advice on implementation of accessibility provisions in the 2010 Act can be accessed via the following link: <http://www.dft.gov.uk/topics/public-transport/taxis/>

4.9. The Scottish Government will continue to liaise with (UK) Department for Transport colleagues on the matter of commencement of provisions and any resulting guidance for authorities and operators. We will keep Scottish stakeholders informed of developments.

Duty to carry guide, hearing and prescribed assistance dogs

4.10. Since 3 March 2003 licensed taxi drivers in Scotland have been under a duty (introduced as a condition of licence) to carry guide, hearing and other prescribed assistance dogs in their taxis, without additional charge (The Taxi Drivers' Licences (Carrying of Guide Dogs and Hearing Dogs) (Scotland) Regulations 2003). Drivers who have a medical condition that is aggravated by exposure to dogs may apply to their licensing authority for exemption from the duty on medical grounds. Any other driver who fails to comply with the duty is guilty of a criminal offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

4.11. Similar duties were introduced for private hire car drivers with effect from 31 March 2004 in The Private Hire Car Drivers' Licences (Carrying of Guide Dogs and Hearing Dogs) (Scotland) Regulations 2004.

4.12. Since these duties are introduced as a condition of licence the question of enforcement and the investigation of any complaints received is primarily a matter for local licensing authorities. It is therefore for authorities to decide whether breaches in regard to these duties should be pursued through the courts or alternatively by use of their powers under Schedule 1, paragraph 11 of the 1982 Act.

Chapter 5 - VEHICLES

Vehicle specification

5.1. The legislation gives local authorities a wide range of discretion over the types of vehicle that they can license as taxis or private hire cars. Some authorities have adopted criteria as to vehicle specification that in practice can only be met by purpose-built vehicles but the majority license a range of vehicles.

5.2. While purpose-built vehicles are amongst those which a local authority could be expected to license, licensing authorities should be cautious about specifying only purpose-built taxis, with the strict constraint on supply that this implies. Similarly, it may be too restrictive to rule out considering Multi-Purpose Vehicles, or to license them for fewer passengers than their seating capacity (provided of course that the capacity of the vehicle is not more than eight passengers).

5.3. Some licensing authorities operate a policy of specifying as many different types of vehicle as possible. Indeed such authorities might also consider a policy that allowed the taxi/private hire car trade to propose vehicles of their own choice that met a range of general criteria as to specification set by the licensing authority. Such an approach could provide greater flexibility in allowing new vehicle types to be considered. See also paragraphs 5.13 – 5.14 under „Environmental considerations“.

Imported vehicles: type approval

5.4. It may be that from time to time a local authority will be asked to license as a taxi or private hire car, a vehicle that has been imported independently (that is, by somebody other than the manufacturer). Such a vehicle might meet an authority's criteria for licensing, but the licensing authority may nonetheless be uncertain about the wider rules for imported vehicles being used in the UK. Such vehicles will be subject to the 'type approval' rules. Information about „type approval“ and the procedures for licensing and registering imported vehicles can be found on the Department for Transport's website under „EC Whole Vehicle Type Approval“: <http://www.dft.gov.uk/topics/vehicles/ecwvta/>

Vehicle testing

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

- **Frequency of tests.** The legal requirement for taxis requires that they should be subject to an MOT test or its equivalent one year after first registration and annually thereafter. For private hire cars annual MOT testing should commence after the vehicle is three years old. Notwithstanding MOT requirements, authorities generally undertake inspection of taxis and private hire cars at first licensing and annually or more frequently thereafter. This approach is considered best practice in the interests of public safety. Annual testing for licensed vehicles regardless of age is considered best practice although more frequent testing may be appropriate for older vehicles (see

'age limits' below). Local licensing authorities may wish to note that a review carried out by the National Society for Cleaner Air in 2005 found that taxis were more likely than other vehicles to fail an emissions test. This finding, perhaps suggests that emissions testing should be carried out on an ad hoc basis and more frequently than the full vehicle test.

- **Criteria for tests.** Similarly, for mechanical matters it seems appropriate to apply the same criteria as those for the MOT test to taxis and private hire cars. The MOT test on vehicles first used after 31 March 1987 includes checking of all seat belts. However, taxis and private hire cars provide a service to the public, so it is also appropriate to set criteria for the internal condition of the vehicle, requiring for example the internal passenger accommodation, upholstery and fittings to be maintained in a serviceable condition. Further advice and details of publications about MOT testing can be accessed on the Vehicle & Operator Services Agency (VOSA) website at: <http://www.vosa.gov.uk/vosacorp/publications.htm>
- **Age limits.** The setting of an age limit beyond which a local authority will not license vehicles is somewhat arbitrary and disproportionate particularly as it is perfectly possible for a well-maintained older vehicle to be in good condition. A greater frequency of testing may, however, be appropriate for older vehicles - for example, twice-yearly tests for vehicles more than five years old.
- **Number of testing stations.** There is sometimes criticism that local authorities provide only one testing centre for their area (which may be geographically extensive). So it is good practice for local authorities to consider having more than one testing station. There could be advantage in contracting out the testing work, and to different garages. In that way the licensing authority can benefit from competition in costs. The Vehicle Operators and Standards Agency - VOSA - may be able to assist where there are local difficulties in provision of testing stations.

Security

5.6. Licensing authorities should actively promote and facilitate good links between the taxi and private hire car trades and the local police force, including active participation in any crime reduction initiatives.

5.7. The owners and drivers of vehicles will often want to install security measures to protect the driver. Local licensing authorities may consider that this is a matter best left to the judgement of the owners and drivers themselves. However, it is recommended practice for licensing authorities to consider sympathetically, or indeed actively encourage, their installation. Security measures could include a screen between driver and passengers or CCTV.

5.8. Installation of CCTV in taxis and private hire cars may offer a degree of security in terms of safety of both passengers and drivers alike. It could also prove a useful tool in corroboration in cases of fare disputes, vandalism and other anti-social or criminal behaviour committed within the vehicle. Authorities in assessing the suitability of CCTV equipment must be aware of any responsibilities for themselves

and/or the drivers and operators of the CCTV systems under the Data Protection Act 1998. The Information Commissioner's Office is a helpful source of information and advice. Where CCTV systems are installed in taxis and private hire cars, operators should ensure that they comply with the Information Commissioner's Office CCTV code of practice. Images recorded on such systems are personal data and their processing is subject to the provisions of the Data Protection Act 1998.

5.9. Care should be taken that any security measures within the vehicle do not impede a disabled passenger's ability to communicate with the driver

Vehicle identification

5.10. Members of the public can be unaware of the fact that private hire cars and taxis operate differently, that private hire cars are not available for immediate hire and must be pre-booked. It is important, therefore, that it is easy to distinguish between the two types of vehicle.

5.11. Section 14 of the 1982 Act prohibits the display on, or in, a private hire car of any feature which could suggest that the vehicle is available for hire as a taxi. The display of rooftop signage on private hire cars may lead to confusion and we suggest as best practice the inclusion of a condition of licence for private hire cars precluding the display of any type of rooftop signage on such vehicles (condition 14 of the model conditions set out in Annex B to Scottish Development Department [Circular 25/1986](#) refers).

5.12. In addition to the specified local authority licence plate or disc identifying the vehicle as a private hire car some clearer identification is best practice. This is for two reasons: firstly, to ensure a more positive statement that the vehicle cannot be hired immediately through the driver; and secondly because it is reasonable, and in the interests of the travelling public, for a private hire car operator to be able to state on the vehicle the contact details for hiring. In this regard authorities might consider introduction of a licence condition which requires a sign on the vehicle in a specified form. This will often be a sign of a specified size and shape which identifies the operator (with a telephone number for bookings) and the local licensing authority, and which also has some words such as 'pre-booked only'. This approach identifies the vehicle as private hire, helps to avoid confusion with a taxi and gives useful information to the public wishing to make a booking.

Environmental considerations

5.13. Local licensing authorities should consider how far their vehicle licensing policies can and should support any local environmental policies that they may have adopted, bearing in mind the need to ensure that benefits outweigh costs (in whatever form) and in discussion with those responsible for environmental health issues. Local authorities, may, for example, wish to consider promoting cleaner fuels or training for drivers in eco friendly/economic driving (see Training section at paragraph 8.12). Authorities may also wish to consider in any review of their list of approved vehicles for licensing purposes the availability of increasing numbers of hybrid/electric and low carbon vehicles on the market. The Scottish Government would encourage licensing authorities to be flexible in considering alternative

technologies perhaps in collaboration with private companies. Authorities in considering approval of eco-friendly vehicles will doubtless have due regard to their obligation to be satisfied as to a vehicle's suitability for licensing as a taxi or private hire car in terms of type, size and design and that it is comfortable and safe for use as a taxi or private hire car (section 10 of the 1982 Act). Such considerations should form part of any wider environmental policy strategy.

5.14. A recent Scottish Government survey of Scottish local authorities suggests that few have adopted specific environmental policies with regard to taxi and private hire car licensing in their areas. A number have however advised that they operate, or are considering a policy, of varying in their vehicle specification the minimum engine capacity (typically 1800cc) to allow for the licensing of environmentally friendly vehicles e.g. hybrid/electric/hydrogen as taxis or private hire cars. Such policy is to be encouraged and would go some way to reducing levels of fuel consumption and thus emissions.

Exemptions from licensing

5.15. Section 22 of the 1982 Act sets out certain exemptions from licensing requirements. Operators wishing to rely on the limited exemption provided in Section 22(c) will want to ensure that they fall within its scope. Section 22(c) states:

Nothing in sections 10 to 21 (with the exception of subsection (7) of section 21) of this Act shall ...apply to any vehicle while it is being used for carrying passengers under a contract for its exclusive hire for a period of not less than 24 hours.

„Exclusive hire“ is defined in a report commissioned by the (UK) Department for Transport in 2009 as a hiring in which the vehicle is hired as a whole by a single person or group.

5.16. The "Notes on Clauses" which accompanied the 1982 Act stated, in respect of this exemption:

It is not the intention of the taxi and private hire car licensing system to apply to a vehicle used for carrying passengers for hire and reward under contract for its exclusive hire for periods of not less than 24 hours and sub-paragraph (c) specifically exempts such vehicles - on the argument that longer hires are likely to be the subject of informed individual inspection and negotiation - e.g. company hires - where there is not the same need to protect the casual hirer.

5.17. Licensing authorities will be aware that this exemption allows drivers and vehicles being used **exclusively** for contract work to fall outwith the licensing regime. This is on the assumption that the person/body contracting the work will be responsible for the scrutiny of the person/company fulfilling the contract. However, the use of unlicensed individuals or firms to provide transport services, particularly to vulnerable groups, should be carefully considered. Any tendering process and final contract must clearly be compliant with relevant legislation (i.e. registration with Protecting Vulnerable Groups scheme where appropriate) but should also build in time and capacity to effectively establish the safety and suitability of the drivers and

vehicles. Considering the wide range of factors that this covers (road worthiness, accessibility requirements, criminal records checks, driver training etc), the use of licensed drivers and vehicles may be more efficient.

Licensing of stretch limousines and other special events vehicles

5.18. Special events vehicles (stretch limousines, decommissioned emergency service vehicles etc) typically booked for party occasions are appearing on our roads in increasing numbers clearly demonstrating a public demand for the special service that they provide.

5.19. Concern has been expressed that some such vehicles may be operating outwith any specific licensing regime. These vehicles and their drivers may not therefore have been subject to appropriate scrutiny either under the private hire car or public service vehicle licensing arrangements (the latter applies primarily to vehicles that have more than 8 passenger seats. Responsibility for this legislation is reserved to the UK Government).

5.20. Section 23 of the 1982 Act defines „hire car“ in the following terms:

„hire car“ means a motor vehicle with a driver (other than a vehicle being a public service vehicle within the meaning of section 1(1)(a) of the Public Passenger Vehicles Act 1981) (the 1981 Act) which is, with a view to profit, available for hire by the public for personal conveyance.

5.21. Section 7 of the 1982 Act provides that any person who, without reasonable excuse, does anything for which a licence is required under Part II of the Act (which includes sections 10-23) without having such a licence, shall be guilty of an offence.

5.22. In terms of section 10 of the 1982 Act, licensing authorities have discretion over the types of vehicles that they license as private hire cars. We understand that some authorities license limousines, that some do not and that few if any authorities license other special events vehicles. In some instances, therefore, it is currently not possible for an operator of a special events vehicle to secure a private hire car licence. The view the licensing authority takes in relation to the licensing of special events vehicles is a separate issue from whether a licence is required to operate or drive such a vehicle.

5.23. The Scottish Government takes the view that a blanket policy to refuse to license these vehicles simply as a matter of principle presents an unacceptable safety risk to the travelling public. Public safety considerations are best served by the adoption of policies that ensure through the licensing process the vetting of operators and drivers and inspection of vehicles.

5.24. In the light of the above, we would encourage licensing authorities:

- to consider applications on their individual merits having regard to the above advice
- to adopt, in liaison with the police, a proactive approach, to the question of the operation of vehicles without a licence required under the 1982 Act.

5.25. Licensing authorities in considering any variance in regard to its technical specification of vehicle for licensing as a private hire car, perhaps in recognition of the particular nature of the service provided by special event type vehicles, will wish to ensure that the principles of section 10(3) are not compromised in any way.

5.26. It should be emphasised that the above advice applies to vehicles with capacity up to 8 passenger seats. Vehicles with greater seating capacity may fall to be considered under public service vehicle legislation.

5.27. In the exercise of their discretion as to the suitability of a particular vehicle for licensing as a private hire car, authorities might wish to consider whether policies for example setting age limits on vehicles (see paragraph 5.5) and/or excluding left hand drive are not unduly restrictive.

5.28. Imported stretched limousines have in the past been checked for compliance with British regulations under the Single Vehicle Approval inspection regime, prior to registration. This has now been replaced by the Individual Vehicle Approval (IVA) scheme. The IVA test verifies that the converted vehicle is built to certain safety and environmental standards. A licensing authority might wish to request sight of the IVA certificate to ensure that the vehicle was tested by VOSA before being registered and licensed (taxed) by DVLA. This can be done, either by checking the Registration Certificate (V5C) of the vehicle, which may refer to IVA under the „Special Note“ section, or by writing to VOSA (<http://www.dft.gov.uk/vosa/contactus/contactus.htm>) providing details of the vehicle make/model, registration number and VIN number.

5.29. Some councils have reported difficulty due to the size of some vehicles precluding them being properly tested in conventional MOT garages. If there is not a suitable MOT testing station in the area we understand that it may be possible to arrange to test the vehicle at a local VOSA test station. The local enforcement office may be able to advise (<http://www.dft.gov.uk/vosa/contactus/vosalocationsandofficesofthetrafficcommissioners/vosaenforcementoffices.htm>).

Quantity restrictions on taxi licences

5.30. The present legal provision on quantity restrictions for taxis is set out in section 10(3) of the 1982 Act. This provides that:

...the grant of a taxi licence may be refused by a licensing authority for the purpose of limiting the number of taxis in respect of which licences are granted by them if, but only if, they are satisfied that there is no significant demand for the services of taxis in their area which is unmet.

5.31. Local licensing authorities will be aware that, in the event of a challenge to a decision to refuse a licence, the local authority concerned would be required to establish to the satisfaction of the court that it had first satisfied itself that there was no such significant unmet demand.

5.32. The Scottish Government remains of the view that decisions as to the case for limiting taxi licences should remain a matter for licensing authorities in the light of local circumstances. Licensing authorities that presently restrict numbers of taxi licences are, however, encouraged to periodically review this policy and to examine the wider policy direction.

5.33. Licensing authorities in reviewing their policy with regard to quantity restrictions on taxi licences should consider whether any restriction presently in place should continue. The matter should be approached in terms of the interests of taxi users. What benefit is achieved for them by the continuation of controls and how might they benefit if the controls were removed? Is there evidence that removal of the controls would result in a clear and unambiguous deterioration in the amount or quality of taxi service provision? Authorities in assessing the case for quantity restrictions will wish also to have regard to the availability of an appropriate supply of accessible vehicles within the hire car fleet such as to meet the needs of passengers with a disability.

5.34. Authorities may find the information in Annex A helpful. The Annex sets out a number of questions which may be helpful to licensing authorities in any review of policy in regard to the quantity control of taxi licences.

5.35. The Scottish Government agrees that the question of the restriction of licences should be left to the discretion of licensing authorities. However, there is a need for review of the frequency and component parts of the surveys used by local authorities to measure unmet demand. In regard to frequency, licensing authorities should carry out a survey sufficiently frequently to be able to respond to any challenge to the satisfaction of a court.

5.36. Some key points which authorities should consider are:

- **The length of time that would-be customers have to wait at ranks.** However, this alone is an inadequate indicator of demand.
- **Waiting times for street hailings and for telephone bookings.** But waiting times at ranks or elsewhere do not in themselves satisfactorily resolve the question of unmet demand.
- **Latent demand**, for example people who have responded to long waiting times by not even trying to travel by taxi. This can be assessed by surveys of people who do not use taxis, perhaps using stated preference survey techniques.
- **Peaked demand.** It is sometimes argued that delays associated only with peaks in demand (such as morning and evening rush hours, or pub closing times) are not 'significant'. The Scottish Government does not share that view. Since the peaks in demand are by definition the most popular times for consumers to use taxis, unmet demand at these times should not be ignored. Local authorities should consider when the peaks occur and who is being disadvantaged through restrictions on provision of taxi services.
- **Consultation.** As well as statistical surveys, assessment of quantity restrictions should include consultation with all those concerned, including user groups, the police, local businesses (e.g. hotels, pubs and clubs and visitor attractions) and providers of other transport modes (such as train operators who want taxis available to take passengers to and from stations).

- **Publication.** All the evidence gathered in a survey should be published, together with an explanation of what conclusions have been drawn from it and why. If quantity restrictions are to be continued, their benefits to consumers and the reason for the particular level at which the number is set should be explained.
- **Financing of surveys.** It is not good practice for surveys to be paid for by the local taxi trade (except through general revenues from licence fees). To do so can call into question the impartiality and objectivity of the survey process.

Return of Plates - Section 10(6)

5.37. The Scottish Government are aware that some authorities have experienced difficulties over compliance with the return of taxi licence plates required under terms of Section 10(6) of the 1982 Act.

5.38. The Task Group which undertook a review of the licensing provisions of the Act recommended in its report that in order to address their concerns over non-compliance authorities should be encouraged to use their powers under Schedule 1 to insert an expiry date on licence plates at time of issue.

5.39. The Scottish Government supports this recommendation and would encourage licensing authorities to consider the inclusion of an expiry date or car registration number on licence plates at time of issue to discourage non-compliance and assist enforcement personnel in identifying any cases of inappropriate use.

Chapter 6 - TAXI FARES

6.1. Local licensing authorities have a duty under section 17 of the 1982 Act to fix the scales for fares and all other charges in connection with the hire of taxis in their area and have a duty to review the resultant fare scales within 18 months of the scales coming into effect.

6.2. In the conduct of a tariff review, authorities are advised as best practice to pay particular regard to advice contained in paragraphs 2.34 - 2.37 of Scottish Development Department [Circular 25/1986](#). The Circular advises on the frequency of reviews, need for consultation, relevant considerations and the right of appeal.

6.3. Authorities should be aware of legislative changes that have been introduced by Section 174 of the Criminal Justice and Licensing (Scotland) Act 2010. The following are the main changes that affect sections 17 and 18 of the 1982 Act with regard to taxi fares" appeals and procedures although they do not cover all amendments:

- Section 17 has been amended to clarify „the licensing authority must fix scales for the fares and other charges... **within** 18 months, beginning with the date on which the scales came into effect“. The period of time a licensing authority has to give notice of a new fare scale is extended to 7 days after the scales are fixed.
- Section 18 has been amended to allow representative bodies (as well as individual taxi operators) to appeal to the Traffic Commissioner against fare scales.

6.4. Authorities will also wish to be aware of advice contained in paragraphs 2.38 - 2.42 of Circular 25/1986 and the procedural rules set out in „The Licensing and Regulation of Taxis (Appeals in Respect of Taxi Fares) (Scotland) Order 1985“. The procedural rules have recently been amended by „The Licensing and Regulation of Taxis (Appeals in Respect of Taxi Fares) (Scotland) Amendment Order 2011“ to reflect the legislative amendment within section 174 of the 2010 Act.

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

6.6. There may be a case for allowing any taxi operators who wish to do so, to make it clear - perhaps by advertising on the vehicle - that they charge less than the maximum fare.

Chapter 7 - LICENSING OF BOOKING OFFICES

7.1. Legislation introduced in 2009 requires licensing authorities to license the use of premises used for the taking of bookings for taxis and private hire cars in the interests of public safety and crime prevention (<http://www.legislation.gov.uk/ssi/2009/145/contents/made>).

7.2. The Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 2009 ("The Order") was made on 2 April 2009 and came into effect on 16 November 2009. It provides that prescribed booking offices (those which take bookings for 4 or more relevant vehicles i.e. taxis or private hire cars licensed under Section 10 of the 1982 Act) must hold a booking office licence issued by the local authority in which area the premises are located.

7.3. The Order created a new licensable activity under the 1982 Act namely "the use of premises for the carrying on of a business which consists to any extent of the taking of bookings, by any means of communication, from members of the public for the hire of a relevant vehicle". (A relevant vehicle is defined as a vehicle in relation to which a taxi or private hire car licence has been granted in terms of the 1982 Act).

7.4. The Order prescribes several licensing conditions which authorities are required to attach to the grant or renewal of a booking office licence. These conditions require that a record is kept of all bookings taken and that that record should include the registration number of the vehicle and the name of the driver fulfilling the hire. The licence holder is also required to take all reasonable steps to ensure that any vehicle and driver used to fulfil a hire is appropriately licensed under the 1982 Act.

7.5. The new legislation does not set out to be overly prescriptive as to conditions that might be applied to licences. Authorities, however, may in terms of paragraph 5 to Schedule 1 of the 1982 Act attach such other reasonable licensing conditions as they consider appropriate having regard to local circumstances and their own legal advice.

7.6. The Order applies Part 1 of the 1982 Act (including Schedule 1) with certain modifications. This ensures that licensing authorities will send a copy of any application to the Chief Constable. The result is that those responsible for the operation of booking offices (the licence holder) are subject to police criminal record checks. Local authorities are also required to refuse an application where the applicant is not a fit and proper person to be a holder of the licence. In the case where a licence for that activity is in force or has been applied for the Order will also afford enforcement personnel and police with access to inspect premises and records to check whether the terms of a licence are being complied with. The Order will also, subject to the obtaining of a warrant, provide powers to enforcement personnel and police to enter and search unlicensed premises.

Chapter 8 - DRIVERS

Duration of Licences

8.1. It is obviously important for safety reasons that drivers should be licensed. The process of renewing licenses, as with granting new licenses, is an important element of ensuring public safety and preventing criminality in the trade. While a three year license is the legal maximum, licensing authorities should consider carefully whether this length of time between renewal provides an appropriate level of scrutiny. There is a balance to be struck between a policy which is not an undue burden on drivers and licensing authorities alike and one which provides reassurance to the travelling public.

8.2. While a three year license can be good practice for licence holders that present no cause for concern, licensing authorities may wish to consider annual licenses for new applicants or where they feel a more frequent level of scrutiny is required. An annual licence may also be preferred by some drivers. That may be because they have plans to move to a different job or a different area, or because they cannot easily pay the fee for a three-year licence, if it is larger than the fee for an annual one. It can therefore be good practice to offer drivers the choice of an annual licence or a three year licence.

Criminal Record Checks

8.3. Applications for grant or renewal of taxi and private hire car and driver licences are required in terms of section 4 and paragraph 2(1) of schedule 1 of the 1982 Act to be copied to the Chief Constable. Any objection or representation relating to an application for the grant or renewal of a licence will be refused if the applicant is disqualified or is not a fit and proper person to be a holder of the licence.

8.4. The weight to be attached to convictions in the consideration as to the suitability of an applicant is a matter for the determination of the relevant licensing authority. In considering an individual's criminal record, local licensing authorities will want to consider each case on its merits, but they will doubtless take a particularly cautious view of any offences involving violence, and especially sexual attack. In order to achieve consistency, and thus reduce the risk of successful legal challenge, local authorities will ideally want to have a clear policy for the consideration of criminal records.

8.5. The Scottish Government introduced the Protecting Vulnerable Groups (PVG) Scheme with effect from 28 February 2011. The Scheme, delivered by Disclosure Scotland, replaces and improves upon present disclosure arrangements for people who work with vulnerable groups. The PVG Scheme can include taxi/private hire car drivers contracted to undertake regulated work in relation to the provision of transport to vulnerable groups. Detailed information and guidance on the PVG scheme can be accessed at:

<http://www.disclosurescotland.co.uk/guidance/index.html>

8.6. Where appropriate, local licensing authorities will want to consider a policy on applicants from other EU and non-EU countries. One approach is to require a

certificate of good conduct authenticated by the relevant embassy. The Criminal Records Bureau (an executive agency of the Home Office) provides further information on checking overseas applicants:

<http://www.businesslink.gov.uk/bdotg/action/detail?itemId=1084427779&type=RESOURCES>.

Age Limits

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

Medical Fitness

8.8. It is common for Scottish licensing authorities to apply the „Group 2“ medical standards (applied by DVLA to the licensing of lorry and bus drivers) to applicants for taxi and private hire car drivers' licences. New arrangements are now in place for any person who has insulin-dependent diabetes and wants to be assessed for Group 2 standards. A leaflet from DVLA explaining the recent change and the process which applicants for a Group 2 medical must go through can be accessed on the Directgov website: [„A Guide for drivers with Insulin Treated Diabetes who wish to apply for Vocational Entitlement“](#)

Driving Experience

8.9. Introduction of legislation in the Criminal Justice and Licensing (Scotland) Act 2010 Section 174 provides that an applicant for a taxi or private hire car driver's licence under Section 13 must have held a VOSA issued driving licence for the 12 month period immediately prior to the date of their application. This applies to first applications and renewals. This is to ensure that an applicant has recent driving experience prior to applying for a licence.

Driving Proficiency

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

Training

8.11. A number of Scottish licensing authorities have, or are developing, minimum training requirements for taxi drivers which require to be met at first grant of a licence or at renewal. Such training typically covers matters such as customer care, disability awareness, managing conflict, road safety etc. The Scottish Government commends as best practice the importance of such vocational training for drivers and would

encourage authorities to adopt a positive approach to vocational training. While the 1982 Act does not provide that private hire car driver applicants must satisfy an authority as to their competence in the above matters prior to obtaining a licence, authorities may wish to require as a condition of licence that these drivers undergo appropriate training. The Scottish Government would commend as best practice any conditions of licence that seek to raise the standards within the taxi and private hire car trades.

8.12. Go Skills (<http://www.goskills.org/index.php/industries/4>) is the Sector Skills Council for passenger transport and can offer authorities professional advice and support on best practice in regard to vocational training for the taxi and private hire car trades through its regional network of Business Advisers. Training can cover customer care (including how best to meet the needs of people with disabilities and other sections of the community, how to defuse difficult situations and manage conflict), relevant legislation, road safety, eco-friendly driving, the use of maps and GPS and the handling of emergencies.

Topographical Knowledge

8.13. Taxi drivers need a good working knowledge of the area for which they are licensed, because taxis can be hired immediately, directly with the driver, at ranks or on the street. Many licensing authorities require prospective taxi drivers to pass a test of local topographical knowledge as a condition of first grant of a licence. Mandatory testing of topographical knowledge is best practice although the stringency of the test should reflect the complexity or otherwise of the local geography, on the principle of ensuring that barriers to entry are not unnecessarily high.

8.14. However, private hire cars are not legally available for immediate hiring in the same way as taxis and must be pre-booked. As the driver has an opportunity to check the details of a route before starting a journey, the 1982 Act makes no provision for private hire car drivers to undergo such testing as a requirement to obtaining a licence. However authorities seeking to ensure that private hire car drivers have a good topographical knowledge of the area in which they operate might consider the introduction of such proficiency testing as a condition of licence.

Chapter 9 - FLEXIBLE TRANSPORT SERVICES

9.1. It is possible for taxis and private hire cars to provide flexible transport services in a number of different ways. Such services can play a valuable role in meeting a range of transport needs, especially in rural areas - though potentially in many other places as well.

9.2. Local licensing authorities are encouraged, as a matter of best practice, to play their part in promoting flexible services, so as to increase the availability of transport to the travelling public. This can be done partly by drawing the possibilities to the attention of the taxi and private hire car trade.

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

- **Taxibuses** (section 12, Transport Act 1985): Owners of licensed taxis can apply to the Area Traffic Commissioner for a special restricted public service vehicle operator licence. The taxi owner can then use the vehicle to run a bus service for up to eight passengers. The route must be registered with the Traffic Commissioner and must have at least one stopping place in the area of the local authority that licensed the taxi, though it can go beyond it. The bus service will be eligible for Bus Service Operators Grant (subject to certain conditions) and taxibuses can be used for local authority subsidised bus services. The travelling public have another transport opportunity opened for them, and taxi owners have another business opportunity.
- **Private Hire Cars - local bus services** (Section 53, Local Transport Act 2008): Owners of licensed private hire cars may apply to the Area Traffic Commissioner for a special licence to run a local bus service for up to eight passengers. The service as with taxibuses will be eligible for Bus Service Operators Grant (subject to certain conditions). Further information on applying for a special restricted public service vehicle license can be found on the Business Link website (www.businesslink.gov.uk).
- **Shared Taxis/private hire cars** (Section 14, Transport Act 1985): Powers under this section relate to the carriage of passengers in taxis and private hire cars at separate fares. Further guidance on such arrangements is contained in paragraph 9 and Annex C of Scottish Development Department [Circular 25/1986](#).

Chapter 10 - COMPLAINTS PROCEDURES

10.1. It is inevitable in the provision of taxi and private hire car services that passengers will on occasion have reason to complain about the standard of service provided. Complaints from passengers are likely in the first instance to be directed at the driver or, particularly in cases where a vehicle has been pre-booked or supplied on contract, to the company/agent who accepted the booking. Where having initially made a complaint a passenger remains unsatisfied they may decide to take up their complaint formally with the licensing authority. Complaints regarding criminal activity should be brought to the attention of the police.

10.2. Licensing authorities will have established procedures for dealing with complaints from members of the public aggrieved at the service they have received or the manner in which they were treated. A number of licensing authorities publish on their web pages details of their procedures for handling complaints from members of the public. This approach is commended as good practice. Such advice should highlight information which a complainant should provide to assist an authority in dealing with their complaint e.g. taxi/private hire car registration and/or plate number, date and time of journey, name of taxi/ private hire car company where known etc. It may also advise as to what steps the authority take to investigate complaints. It would clearly be good practice for relevant advice to be made available and published on the council's website in accessible formats to assist in informing those with hearing or visual impairment.

Chapter 11 - LOCAL TRANSPORT STRATEGIES

11.1. The Transport (Scotland) Act 2001 enables the Scottish Ministers to issue guidance to local transport authorities on the preparation of local transport strategies. The latest guidance was issued in February 2005 and proposed that authorities develop strategies covering a 3-year period.

11.2. Taxis and private hire cars are an important link to the public transport chain, filling gaps in overall transport provision not least for those who do not have access to a car. Local authorities are asked to consider the role that taxis and private hire cars play in public transport and ensure that the licensing system in place is appropriate to local needs and circumstances, including those of disabled people. In acknowledgement of the importance of taxis and private hire cars to the transport infrastructure, authorities are encouraged as best practice to engage with operators and representative bodies including disability interests in any review of their transport strategies.

11.3. „Scotland's Transport Future: Guidance on Local Transport Strategies“ (<http://www.scotland.gov.uk/Publications/2005/03/20775/53775>), identified a number of policy themes in regard to taxi and private hire car services which authorities could consider in the preparation of their transport strategies (see Part 3, paragraphs 3.43 - 3.46).

ANNEX A

Assessing quantity controls of taxi licences

Useful questions relating to the policy of controlling numbers:

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

Useful questions relating to setting the number of taxi licences:

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

Useful questions relating to consultation and other public transport service provision

- When consulting, have you included etc
 - all those working in the market;
 - consumer and passenger (including disabled) groups;

- groups which represent those passengers with special needs;
 - local interest groups, e.g. hospitals or visitor attractions;
 - the police;
 - a wide range of transport stakeholders e.g. rail/bus/coach providers and traffic managers?
- Do you receive representations about taxi availability?
- What is the level of service currently available to consumers (including other public transport modes)?



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