

Taxis and Private Hire Vehicles - Consultation on Draft Best Practice Guidance

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Consultation letter

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Dear Sir/Madam

Taxi and Private Hire Vehicle Licensing: Consultation on Draft Best Practice Guidance

1. The purpose of this consultation exercise is to invite your views, by 28 October 2005, on the draft Best Practice Guidance which we have prepared to assist taxi and private hire vehicle (PHV) licensing authorities.

Background

2. When the Office of Fair Trading produced its report on the UK taxi/PHV market, it recommended that the Department should produce Best Practice Guidance for local taxi and PHV licensing authorities. The Government responded to the OFT report in March 2004 and accepted their recommendation. Accordingly, we have produced a draft version of the Guidance and we are now seeking feedback before we publish a final version.
3. The draft Best Practice Guidance is attached at Annex A.

Application to Devolved Administrations

4. The Department for Transport has responsibility for taxi and PHV legislation in England and Wales, and, accordingly, the Guidance we eventually publish will be directed at local authorities in England and Wales. Responsibility for taxi and PHV licensing in Scotland and Northern Ireland is devolved, but the respective Administrations have been involved in the preparation of this draft Guidance and will decide for themselves the extent to which they wish to make use of it or adapt it to suit their own purposes.

Consultation Responses

5. A feedback form is attached at Annex B; using it would help us to consider your comments in an organised and coherent way. Electronic copies of the form can be found on the Department's website at www.dft.gov.uk.
6. A list of the initial consultees is attached at Annex C to this document. If you think any other organisation should see it, please let us know.
7. Please send your responses by 28 October to Andy Neilson in one of the following ways:
in writing to 3/13 Great Minster House, 76 Marsham Street, London, SW1P 4DR;
by fax to 020 7944 2212; or

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by e-mail to Andrew.Neilson@dft.gsi.gov.uk.

8. If you are responding in writing please submit two copies of your response. If you are responding as a representative organisation, please include in your response a summary of the people and organisations which you represent.

Copies of Responses

9. A summary of the comments received will be published on the DfT website after the consultation period ends. The Freedom of Information Act 2000 requires public authorities to disclose information they hold if it is requested. This includes information contained in responses to consultations. The Department will generally publish subsequently the information it discloses under FOI on its website. If you ask for your response to be kept confidential this will only be possible if it is consistent with the Department's obligations under the Freedom of Information Act.

Conduct of this Consultation

10. This consultation is being conducted in accordance with the Government's Code of Practice on Written Consultation (April 2004). The criteria contained within the Code are set out in Annex D and apply to all UK national public consultations on the basis of a document in electronic or printed form. If, however, you have any comments or complaints to make about the way the consultation process has been conducted - as distinct from comments on the proposals in the consultation paper - you should contact: Andrew D Price, Consultation Co-ordinator, Department for Transport, Zone 9/09, Southside, 105 Victoria Street, London SW1E 6DT (Tel no: 020 7944 3709, Fax no: 020 7944 5811).

Enquiries

11. Enquiries about the contents of this consultation paper should be made to Pippa Brown at the above address.

Further copies of the consultation paper

12. This document is available on the Department for Transport web-site www.dft.gov.uk. Alternatively, requests for further copies should be made to Andy Neilson on 020 7944 2292.

Yours faithfully

David Farmer

Annex A: Taxi and Private Hire Vehicle Licensing: Best Practice Guidance 2005

02 August 2005

Introduction

1. This guidance is issued with the aim of assisting those local authorities in England and Wales that have responsibility for the regulation of the taxi and private hire vehicle trades.
2. The guidance follows the publication in November 2003 by the Office of Fair Trading of a market study of the regulation of taxis and private hire vehicles (PHVs) in the UK. One of the recommendations of that study was that the Department for Transport (DfT) should produce guidance on best practice for the local licensing authorities concerned. The guidance is issued in fulfilment of that recommendation.
3. However, it will be appreciated that it is for individual licensing authorities to reach their own decisions both on overall policies and on individual licensing matters, in the light of their own views of the relevant considerations.
4. Various interested parties, including the National Association of Licensing and Enforcement Officers (NALEO); have been consulted on the guidance.

The role of taxis and PHVs

5. Taxis (more formally known as hackney carriages) and PHVs (or minicabs as some of them are known) play an important part in local transport. In 2003 some 650 million journeys were made by taxi and PHV in Great Britain, and households spent around £3 billion on taxi and PHV journeys; spending by businesses and foreign visitors was a substantial extra figure. Taxis and PHVs are used by all social groups; low-income young women (amongst whom car ownership is low) are one of the largest groups of users.
6. Taxis and PHVs are also increasingly used in innovative ways - for example as taxi-buses - to provide innovative local transport services (see paras 64-67).

The role of licensing: policy justification

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

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

Scope of the guidance

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

Consultation

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

Vehicles

Specification Of Vehicle Types That May Be Licensed

13. The legislation gives local authorities a wide range of discretion over the types of vehicle that they can license as taxis or PHVs. Some authorities specify conditions that in practice can only be met by purpose-built vehicles but the majority license a range of vehicles.
14. Normally, the best practice is for local licensing authorities to adopt the principle of specifying as many different types of vehicle as possible. Indeed, local authorities might usefully specify only general criteria, (such as vehicles with four doors as taxis) leaving it open to the taxi and PHV trades to put forward vehicles of their own choice which can be shown to meet those criteria. In that way there can be flexibility for new vehicle types to be readily taken into account.
15. It is suggested that local licensing authorities should be particularly cautious about specifying only purpose-built taxis, with the strict constraint on supply that that implies. (There are at present only two designs of purpose-built taxi.) But of course the purpose-built vehicles are **amongst** those which a local authority could be expected to license.

Accessibility

16. In addition to their general conditions, local licensing authorities will want to consider the accessibility for disabled people (including - but not only - people who need to travel in a wheelchair) of the vehicles they license as taxis.
17. Licensing authorities will know that it remains the Department's intention to make taxi accessibility regulations under the Disability Discrimination Act 1995, In the meantime licensing authorities are encouraged to introduce taxi accessibility policies for their areas. The Department's letter to local licensing authorities of 9 September 2002, the relevant part of which was repeated in the letter of 16 June 2004, gave more detailed advice.

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

Type approval

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

Most registration certificates issued since late 1998 should indicate the approval status of the vehicle. Further information about these requirements and the procedures for licensing and registering imported vehicles can be seen at http://www.dft.gov.uk/stellent/groups/dft_roads/documents/page/dft_roads_506867.hcsp.

Vehicle Testing

20. There is considerable variation between local licensing authorities on vehicle testing, including the related question of age limits. In the light of the principle of costs being at least matched by benefits, the following can be seen as best practice:
- **Frequency Of Tests.** The legal requirement is that taxis and PHVs should be subject to an MOT test or its equivalent once a year after the first three years. An annual test for licensed vehicles of whatever age (that is, including vehicles that are less than three years old) seems appropriate. More frequent tests do not seem appropriate, except possibly for older vehicles (see 'age limits' below).
 - **Criteria For Tests.** Similarly, for mechanical matters it seems appropriate to apply the same criteria as those for the MOT test to taxis and PHVs. However, taxis and PHVs provide a service to the public, so it is also appropriate to set criteria for the internal condition of the vehicle, though these should not be unreasonably onerous.
 - **Age Limits** It is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not license vehicles may be arbitrary and disproportionate. But a greater frequency of testing may be appropriate for older vehicles - for example, twice-yearly tests for vehicles more than five years old.
 - **Number Of Testing Stations.** There is sometimes criticism that local authorities provide only one testing centre for their area (which may be geographically extensive). So it is good practice for local authorities to consider having more than one testing station. There could be advantage in contracting out the testing work, and to different garages. In that way the licensing authority can benefit from competition in costs. One way of ensuring proper standards is for council staff to have vehicles tested as 'mystery shoppers'. (The Vehicle Operators and Standards Agency - VOSA - may be able to assist where there are local difficulties in provision of testing stations.)

Security

21. The owners and drivers of vehicles will often want to install security measures to protect the driver. Local licensing authorities may not want to insist on such measures, on the grounds that they are best left to the judgement of the owners and drivers themselves. But it is good practice for licensing authorities to look sympathetically on - or actively to encourage - their installation. They could include a screen between driver and passengers, or CCTV. Licensing authorities may want to encourage the taxi and PHV trades to build good links with the local police force, including participation in any Crime and Disorder Reduction Partnerships.

Vehicle Identification

22. Members of the public can often confuse PHVs with taxis, failing to realise that PHVs are not available for immediate hire and that a PHV driver cannot be hailed. So it is important to distinguish between the two types of vehicle. Possible approaches might be:
- **a licence condition that prohibits PHVs from displaying any identification at all apart from the local authority licence plate or disc.** But some clearer identification can be seen as best practice. This is for two reasons: firstly, to ensure a more positive statement that the vehicle cannot be hired immediately through the driver; and secondly because it is quite reasonable, and in the interests of the travelling public, for a PHV operator to be able to state on the vehicle the contact details for hiring;
 - **a licence condition which requires a sign on the vehicle in a specified form.** This will often be a sign of a specified size and shape which identifies the operator (with a telephone number for bookings) and the local licensing authority, and which also has some words such as 'pre-booked only'. This approach seems the best practice; it identifies the vehicle as private hire and helps to avoid confusion with a taxi, but also gives useful information to the public wishing to make a booking;
 - another approach, possibly in conjunction with the previous option, **is a requirement for a roof-mounted, permanently illuminated sign with words such as 'pre-booked only'.** But it can be argued that any roof-mounted sign, however unambiguous its words, is liable to create confusion with a taxi. So roof-mounted signs on PHVs are not seen as best practice.

Environmental Considerations

23. Local licensing authorities will wish to 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 setting vehicle emissions standards, perhaps by promoting cleaner fuels.

Stretched Limousines

24. Local licensing authorities are sometimes asked to license stretched limousines as PHVs. It is suggested that local authorities should approach such requests on the basis that these vehicles have a legitimate role to play in the private hire trade, meeting a public demand. It is therefore further suggested that licence applications should not be automatically rejected (for example just because the vehicles may be left-hand drive).

25. Stretched limousines may also sometimes raise issues about the dividing line between the licensing regimes for PHVs and for small public service vehicles (PSVs). The Department issued guidance on this in its letter of 9 September 2002. One relevant point is that as a matter of law a vehicle licensed as a PHV must not have more than eight passenger seats. Another is that a stretched limousine capable of carrying more than eight passengers will usually not comply with all the technical standards prescribed for a 'minibus' in 'Construction and Use' regulations. (For example, it will not have the required emergency exit.) For first GB registrations after 3 May 2005, the Department will only license and register such a non-compliant vehicle as a passenger car. That in turn will be dependent on the vehicle's passing a Single Vehicle Approval examination on the declared understanding that it will not be used for the carriage of more than eight passengers. It is recommended that the vehicle's approval status be checked to verify whether it is appropriately designed and constructed for the use for which a licence is sought.
26. The Department is currently reviewing issues relating to stretched limousines which have been raised by those with an interest in the provision and regulation of stretched limousines.

Quantity restrictions of taxi licences outside london

27. The present legal provision on quantity restrictions for taxis outside London is set out in section 16 of the Transport Act 1985. This provides that the grant of a taxi licence may be refused, for the purpose of limiting the number of licensed taxis 'if, but only if, the [local licensing authority] is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet'.
28. Local licensing authorities will be aware that, in the event of a challenge to a decision to refuse a licence, the local authority concerned would have to establish that it had, reasonably, been satisfied that there was no significant unmet demand.
29. Most local licensing authorities do not impose quantity restrictions; the Department regards that as best practice. Where restrictions are imposed, the Department would urge that the matter should be regularly reconsidered. The Department further urges that the issue to be addressed first in each reconsideration is **whether the restrictions should continue at all**. It is suggested that the matter should be approached in terms of the interests of the travelling public - that is to say, people who use taxi services. 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?
30. In most cases where quantity restrictions are imposed, vehicle licence plates command a premium, often of tens of thousands of pounds. This indicates that there are people who want to enter the taxi market and provide a service to the public, but who are being prevented from doing so by the quantity restrictions. This seems very hard to justify.
31. If a local authority does nonetheless take the view that a quantity restriction can be justified in principle, there remains the question of the level at which it should be set, bearing in mind the need to demonstrate that there is no significant unmet demand. This issue is usually addressed by means of a survey; it will be necessary for the local licensing authority to carry out a survey sufficiently frequently to be able to respond to any challenge to the satisfaction of a court. An interval of three years is commonly regarded as the maximum reasonable period between surveys.
32. As to the conduct of the survey, the Department's letter of 16 June 2004 set out a range of considerations. But key points are:
 - **the length of time that would-be customers have to wait at ranks.** However, this alone is an inadequate indicator of demand; also taken into account should be...

- **waiting times for street hailings and for telephone bookings.** But waiting times at ranks or elsewhere do not in themselves satisfactorily resolve the question of unmet demand. It is also desirable to address...
 - **latent demand,** for example people who have responded to long waiting times by not even trying to travel by taxi. This can be assessed by surveys of people who do not use taxis, perhaps using stated preference survey techniques.
 - **peaked demand.** It is sometimes argued that delays associated only with peaks in demand (such as morning and evening rush hours, or pub closing times) are not 'significant' for the purpose of the Transport Act 1985. The Department does not share that view. Since the peaks in demand are by definition the most popular times for consumers to use taxis, it can be strongly argued that unmet demand at these times is significant. 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 (which should include groups representing people with disabilities, and people such as students or women), the police, hoteliers, operators of pubs and clubs and visitor attractions, and providers of other transport modes (such as train operators, who want taxis available to take passengers to and from stations);
 - **publication.** All the evidence gathered in a survey should be published, together with an explanation of what conclusions have been drawn from it and why. If quantity restrictions are to be continued, their benefits to consumers and the reason for the particular level at which the number is set should be set out.
 - **financing of surveys.** It is not good practice for surveys to be paid for by the local taxi trade (except through general revenues from licence fees). To do so can call in question the impartiality and objectivity of the survey process.
33. Quite apart from the requirement of the 1985 Act, the Department's letter of 16 June 2004 asked all local licensing authorities that operate quantity restrictions to review their policy and justify it publicly by 31 March 2005 and at least every three years thereafter. The Department also expects the justification for any policy of quantity restrictions to be included in the five-yearly Local Transport Plan process. A recommended list of questions for local authorities to address when considering quantity controls was attached to the Department's letter. (The questions are listed in Annex A to the draft guidance.)

Taxi fares

34. Local licensing authorities have the power to set taxi fares for journeys within their area, and most do so. (There is no power to set PHV fares.) The Department sees it as good practice to review the fare scales at regular intervals, including any graduation of the fare scale by time of day or day of the week. The Department suggests that in doing so local licensing authorities should pay particular regard to the needs of the travelling public, with reference both to what it is reasonable to expect people to pay but also to the need to give taxi drivers sufficient incentive to provide a service when it is needed. There may well be a case for higher fares at times of higher demand.
35. Taxi fares are a maximum, and in principle are open to downward negotiation between passenger and driver. It is not good practice to encourage such negotiations at rank, or for on-street hailings; there would be risks of confusion and security problems. But local licensing authorities can usefully make it clear that published fares are a maximum, especially in the context of telephone bookings, where the customer benefits from competition. There is more likely to be a choice of taxi operators for telephone bookings, and there is scope for differentiation of services to the customer's advantage (for example, lower fares off-peak or for pensioners).

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

Drivers

Duration Of Licences

37. It is obviously important for safety reasons that drivers should be licensed. But it is not necessarily good practice to require licences to be renewed annually. That can impose an undue burden on drivers and licensing authorities alike. Three years is the legal maximum period and is in general the best approach.
38. However, an annual licence may be preferred by some drivers. That may be because they have plans to move to a different job or a different area, or because they cannot easily pay the fee for a three-year licence, if it is larger than the fee for an annual one. So it can be good practice to offer drivers the choice of an annual licence or a three-year licence.

Criminal Record Checks

39. A criminal record check is an important safety measure and is widely required. Taxi and PHV drivers can be subject to an Enhanced Disclosure through the Criminal Records Bureau; this level of disclosure includes details of spent convictions and police cautions. In considering an individual's criminal record, local licensing authorities will want to consider each case on its merits, but they will doubtless take a particularly cautious view of any offences involving violence, and especially sexual attack. In order to achieve consistency, and thus avoid the risk of successful legal challenge, local authorities will doubtless want to have a clear policy for the consideration of criminal records, for example the number of years they will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.
40. Local licensing authorities will also want to have a policy on applicants from elsewhere in the EU and other overseas countries. One approach is to require a certificate of good conduct authenticated by the relevant embassy. The Criminal Records Bureau website (<http://www.crb.gov.uk>) gives information about obtaining certificates of good conduct, or similar documents, from a number of countries.
41. It would seem best practice for Criminal Records Bureau disclosures to be sought when a licence is first applied for and then every three years, even if a licence is renewed annually. This would be on the basis that the drivers would be obliged to report all new convictions to the licensing authority.

Medical Criteria

42. It is clearly good practice for medical checks to be made on each driver as a condition for the initial grant of a licence and thereafter for each renewal. It is common for licensing authorities to apply the 'Group 2' medical standards applied by DVLA to the licensing of lorry and bus drivers. This seems best practice. The Group 2 standards preclude the licensing of drivers with insulin treated diabetes. However, exceptional arrangements do exist for drivers of C1 vehicles who can meet a series of medical criteria. In the light of the latest advice from the Secretary of State's Honorary Medical Advisory Panel on Diabetes Mellitus and Driving, it is suggested that best practice is to apply the C1 standards to taxi and PHV drivers with insulin treated diabetes.

Age Limits

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

Driving Proficiency

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

Other training

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

Contact details are:

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

Tel: 0121-635-5520

Fax: 0121-635-5521

Website: <http://www.goskills.org>

e-mail: info@goskills.org

Topographical Knowledge

46. Taxi drivers need a good working knowledge of the area for which they are licensed, because taxis can be hired immediately, directly with the driver, at ranks or on the street. So most licensing authorities require would-be taxi-drivers to pass a test of local topographical knowledge as a condition of first grant of a licence (though 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).
47. However, PHVs are not legally available for immediate hiring in the same way as taxis. To hire a PHV the would-be passenger has to go through an operator, so the driver will have an opportunity to check the details of a route before starting a journey. So it may be unnecessarily burdensome to require a would-be PHV driver to pass the same 'knowledge' test as a taxi driver, though it may be thought appropriate to test candidates' ability to read a map and their knowledge of key items such as main roads and railway stations.

Duties Under The Disability Discrimination Act 1995 (As Amended By The Disability Discrimination Act 2005)

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

50. Enforcement of the duties is the responsibility of local licensing authorities. It is therefore for authorities to decide whether breaches should be pursued through the courts or considered as part of the licensing enforcement regime, having regard to guidance issued by DfT. In future, when regulations have been made under section 3 of the 2005 Act to bring public functions within the scope of Part III of the Act, disabled people will be entitled to bring an action against a local authority if they consider that the authority's policy or practice, in this or any other area of its licensing functions, unreasonably discriminates against them.
51. When regulations have been made under section 5 of the 2005 Act to lift the transport exemption for taxis in Part III of the Act (access to goods, services and facilities) taxi and PHV drivers will be subject to new duties not to discriminate unreasonably against disabled people.

PHV operators

52. The objective in licensing PHV operators is, again, the safety of the public, who will be using operators' premises and vehicles and drivers arranged through them. But again, best practice is to ensure that costs are commensurate with benefits.

Criminal Record Checks

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

Record Keeping

54. It is good practice to require operators to keep records of each booking, including the name of the passenger, the destination, the name of the driver and the number of the vehicle. That will, for example, enable police checks to be made if any mishap should befall a passenger.

Insurance

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

Licence Duration

56. A requirement for annual licence renewal does not seem necessary or appropriate for PHV operators, whose involvement with the public is less direct than a driver (who will be alone with passengers). Indeed, a licence period of five years seems reasonable.

Enforcement

57. Well-directed enforcement activity by the local licensing authority benefits not only the public but also the responsible people in the taxi and PHV trades. The resources devoted by licensing authorities to enforcement will vary according to local circumstances, including for example any difficulties with touting by unlicensed drivers and vehicles (a problem in some urban areas). Local authorities will also have good liaison with the police.
58. Local licensing authorities often use enforcement staff to check a range of licensed activities (such as market traders) as well as the taxi and PHV trades, to make the best use of staff time. But it is desirable to ensure that taxi and PHV enforcement effort is at least partly directed to the late-night period, when problems such as touting tend most often to arise.

59. Some local licensing authorities employ taxi marshals in busy city centres where there are lots of hirings, again perhaps late at night, to help taxi drivers picking up, and would-be passengers queuing for taxis.
60. As part of enforcement, local licensing authorities will often make spot checks, which can lead to their suspending or revoking licences. They will wish to consider carefully which power should best be used for this purpose. They will note, among other things, that section 60 of the Local Government (Miscellaneous Provisions) Act 1976 provides a right of appeal for the licence-holder, whereas section 68, which is also sometimes used, does not; this can complicate any challenge by the licence-holder.

Taxi zones

61. The areas of some local licensing authorities are divided into two or more zones for taxi licensing purposes. Drivers may be licensed to ply for hire in one zone only. Zones may exist for historical reasons, perhaps because of local authority boundary changes.
62. The Department recommends the abolition of zones. That is chiefly for the benefit of the travelling public. Zoning tends to diminish the supply of taxis and the scope for customer choice - for example, if fifty taxis were licensed overall by a local authority, but with only twenty five of them entitled to ply for hire in each of two zones. It can be confusing and frustrating for people wishing to hire a taxi to find that a vehicle licensed by the relevant local authority is nonetheless unable to pick them up (unless pre-booked) because they are in the wrong part of the local authority area. Abolition of zones can also reduce costs for the local authority, for example through simpler administration and enforcement. It can also promote fuel efficiency, because taxis can pick up a passenger anywhere in the local authority area, rather than having to return empty to their licensed zone after dropping a passenger in another zone.
63. It should be noted that the Government intends to make a Regulatory Reform Order which will remove the need for the Secretary of State to approve amalgamation resolutions made by local licensing authorities. *[A consultation document was published on 20 July 2005; responses are due by 14 October 2005.]*

Flexible transport services

64. It is possible for taxis and PHVs to provide flexible transport services in a number of different ways. Such services can play a valuable role in meeting a range of transport needs, especially in rural areas - though potentially in many other places as well. In recent years there has been a significant increase in the provision of flexible services, due partly to the availability of Rural Bus Subsidy Grant and Rural Bus Challenge Support from the Department for Transport.
65. The Department encourages local licensing authorities, as a matter of best practice, to play their part in promoting flexible services, so as to increase the availability of transport to the travelling public. This can be done partly by drawing the possibilities to the attention of taxi and PHV trade.
66. The main legal provisions under which flexible services can be operated are:
 - **Shared taxis and PHVs - advance bookings** (*section 11, Transport Act 1985*): licensed taxis and PHVs can provide a service at separate fares for up to eight passengers sharing the vehicle. The operator takes the initiative to match up passengers who book in advance and agree to share the vehicle at separate fares (lower than for a single hiring). An example could be passengers being picked up at home to go to a shopping centre, or returning from the shops to their homes. The operator benefits through increased passenger loadings and total revenues.

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

67. The Department is very keen to encourage the use of these types of services. More details can be found in the Department's publication 'Flexible Transport Services' (available from dft@twoten.press.net).

Local transport plans

68. The Transport Act 2000 requires most local transport authorities in England (not London) to produce and maintain a Local Transport Plan (LTP), having regard to any guidance issued by the Secretary of State. The latest guidance was published in December 2004 asking for a provisional LTP by 29 July 2005 and a final one by 31 March 2006. LTPs set out the authority's local transport strategies and policies, and an implementation programme over a five year period. Authorities report each year on their delivery of policies and programmes in Annual Progress Reports.
69. All modes of transport including taxi and PHV services have a valuable part to play in overall transport provision, and so local licensing authorities have an input to make to the Plan process. The key policy themes for such services could be **availability** and **accessibility**. The Plan input could include statements of policy on:
- quantity controls, if any, and plans for their review;
 - licensing conditions, with a view to safety but also to good supply of taxi and PHV services;
 - fares;
 - on-street availability, especially through provision of taxi ranks;
 - vehicle accessibility for people with disabilities;
 - encouragement of flexible services.
70. There should also be a statement of changes in policy since the last Plan and changes that are intended. It would be useful to provide statistics of changes in the number of licences for vehicles, drivers and operators, so that trends in availability can be identified.

Annex A (to the draft Guidance) Useful questions when assessing quantity controls of taxi licences

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

Questions relating to the policy of controlling numbers

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

Questions relating to setting the number of taxi licences

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

Questions relating to consultation and other public transport service provision

- When consulting, have you included etc
 - - all those working in the market;
 - - consumer and passenger (including disabled) groups;
 - - groups which represent those passengers with special needs;
 - - local interest groups, eg hospitals or visitor attractions;
 - - the police;
 - - a wide range of transport stakeholders eg rail/bus/coach providers and traffic managers?
- Do you receive representations about taxi availability?

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- What is the level of service currently available to consumers (including other public transport modes)?

Annex B: Feedback form

We would, of course, welcome comments of a general nature, but in order to help us focus on the range of views conveyed to us, it would be helpful if you could use this form as a basis for your response.

In both general terms and in relation to specific topics, you might wish to focus on the following questions:

- would you regard the draft Guidance as helpful;
- does the draft Guidance cover the right issues;
- should the Guidance cover any further issues;
- do you wish to propose an alternative statement of best practice on any of the issues covered?

Please send your responses by 28 October to Andy Neilson in one of the following ways:

in writing to 3/13 Great Minster House, 76 Marsham Street, London, SW1P 4DR;

by fax to 020 7944 2212; or

by e-mail to Andrew.Neilson@dft.gsi.gov.uk.

Name:	Representing <i>(please give an indication of your perspective eg licensing authority; representative of a trade organisation; representative of a consumer association)</i> :
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Issue	Comments
General comments on the overall document. Is it helpful? Does it cover the right issues? Should it cover any other issues?	
Vehicles	
Accessibility	
Type approval	

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Vehicle testing	
Security	
Vehicle identification	
Environmental considerations	
Stretched limousines	
Quantity restrictions	
Taxi fares	
Drivers - duration of licences	
Criminal record checks for drivers	
Medical criteria for drivers	
Age limits for drivers	
Driving proficiency	
Other driver training	
Topographical knowledge	
Driver duties under the Disability Discrimination Act 1995	

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PHV operators - criminal record checks	
PHV operators - record keeping	
PHV operators - insurance	
PHV operators - licence duration	
Enforcement	
Taxi zones	
Flexible transport services	
Local transport plans	

Annex C: List of initial consultees

Association of Chief Police Officers
Association of London Government
Association of Nottinghamshire PH Operators
Association of Transport Coordinating Officers
Blackpool Borough Council
Boyd, Mr DK. Redditch
British Tourist Authority
Cambridge City Council
Community Transport Association
Consumers Association
Cresta Cabs
~~CRIDPHD~~
Criminal Records Bureau
Diabetes UK
Disabled Persons Transport Advisory Committee
Driver Guides Association
Essex County Council.
Federation of PHVs
Federation of Small Businesses
Flynn, Mrs Pat. Berkshire
GMB London Region
GoSkills
Hulf McRae Ltd
Institute of Licensing
Licensed Private Hire Car Association
Licensed Taxi Drivers Association
Liverpool City Council.
Local Government Association
London Cab Drivers Club
London First.
London Taxi Board
London Taxis International

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London Tourist Board

London's Taxi Network

Magistrates Association

Metrocab

National Association of Licensing Officers

National Council of Women of Great Britain

National Private Hire Car Association.

National Taxi Association

National Taxi Trades Group

Private Hire Board

Public Carriage Office

RADAR

Small Business Service

Society of Professional Licensed Taxi Drivers

Suzy Lamplugh Trust

Tonbridge and Malling Council

Transport and General Workers Union

Transport for London

Uttlesford District Council.

Watford PH Drivers Association

Watts, Mrs Joanna. Dorset

Buses and Taxis Division

DfT

August 2005

Annex D: Conduct of this consultation

This consultation is being conducted in accordance with the Government's Code of Practice on Written Consultation (April 2004). The criteria contained within the Code are reproduced below and apply to all UK national public consultations on the basis of a document in electronic or printed form. If, however, you have any comments or complaints to make about the way the consultation process has been conducted - as distinct from comments on the proposals in this paper - you should contact:

Andrew D Price
Consultation Co-ordinator
Department for Transport
Zone 9/9 Southside
105 Victoria Street
LONDON SW1E 6DT

The six consultation criteria are as follows:

- Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
 - Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
-
- Ensure that your consultation is clear, concise and widely accessible.
 - Give feedback regarding the responses received and how the consultation process influenced the policy.
 - Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
 - Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

Buses and Taxis Division
DfT
August 2005