

**Committee:** Licensing

**Agenda Item**

**Date:** June 17 2009

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**Title:** **GOVERNMENT CONSULTATION ON  
PROPOSED AMENDMENTS TO ITS BEST  
PRACTICE GUIDANCE RELATING TO THE  
REGULATION OF TAXI AND PRIVATE HIRE  
VEHICLES**

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## Summary

1. Although Government guidance on best practice and the regulation of the hackney carriage and private hire trades was last updated as recently as October 2006, the Government is proposing amendments to that guidance on which it is seeking to consult. Members responded fully to the last consultation on Government guidance and reconsidered its policies once that guidance was issued in October 2006. This report therefore merely draws members' attention to the proposed amendments to the guidance.

## Recommendations

2. That members determine how (if at all) they wish to respond to the Government consultation.

## Background Papers

3. Draft taxi and private hire vehicle licensing: Best Practice Guidance available at [www.dft.gov.uk/consultations/open/hirevehiclelicensing/consultation.pdf](http://www.dft.gov.uk/consultations/open/hirevehiclelicensing/consultation.pdf)

## Impact

- 4.

Communication/Consultation	The consultation is open for all who are interested to respond. It is not intended therefore that the Council should consult with others before responding as the response should be that of the Council.
Community Safety	In the event that there is inadequate regulation of the hackney and private hire trades there could be an adverse effect upon community safety.
Equalities	At this level it is for the Government to satisfy itself that the proposed policies

	meet the appropriate equalities standards. In the event that new guidance is issued and members propose changing their policies, then such changes would need to be equality impact assessed.
Finance	Some of the proposals in the revised guidance may have financial impacts upon members of the trade. There appear to be none for the Council however.
Human Rights	Restrictions on the use hackney carriage or private hire vehicles imposed in the public interest are compatible with the Human Rights Act.
Legal implications	None at this stage although there may be some if as a result of newly issued guidance members decide to amend their policies.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

## Situation

5. The Government is considering amending its guidance on best practice for regulation of the hackney carriage and private hire trades focussing on issues involving new policies, where the Government considers advice could be expanded or where progress has been made since the last published guidance. This report draws members' attention to the proposed amendments by the Government.
6. The Government propose changing provisions in the guidance regarding accessibility.

It proposes

“13 Local licensing authorities will want to consider how accessible the vehicles they licence as taxis are for disabled people. Disabled people often use wheelchairs but it should be remembered that there are many who do not and who have other needs that ought to be taken into account.

14 Licensing authorities will know that the Department has for some years been working on proposals that would substantially improve taxi provision for people with disabilities. The Department recently

consulted on this issue – further information will be available at the end of 2009. In the meantime, licensing authorities are encouraged to introduce taxi accessibility policies for their areas. The Department has previously issued detailed guidance on this to local licensing authorities.

- 15 Different accessibility considerations apply between taxis and private hire vehicles. Taxis can be hired on the spot, in the street or at a rank, by the customer dealing directly with the driver. 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 to make that possible. For PHVs it may be more appropriate for a local authority to license any type of saloon car, noting that some PHV operators offer accessible vehicles in their fleet. ...”
- 16 The Department is aware that in some cases taxi drivers are reluctant to pick up disabled people. This may be because drivers are unsure about how to deal with disabled people, they believe it will take longer for disabled people to get in and out of the taxi and so they may lose other fares, or they are unsure about insurance arrangements if anything goes wrong. It should be remembered that this is no excuse for refusing to pick up disabled people and that the taxi industry has a duty to provide a service to disabled people in the same way as it provides a service to any other passenger. Licensing authorities should do what they can to work with operators, drivers and trade bodies in their area to improve drivers’ awareness of the needs of disabled people, encourage them to overcome any reluctance or bad practice and to improve their abilities and confidence. Local licensing authorities should also encourage their drivers to undertake disability awareness training, perhaps as part of the course mentioned in the training session of this guidance that is available through Go Skills.
- 17 In relation to enforcement, licensing authorities will know that section 36 of the Disability Discrimination Act 1995 (DDA) was partially commenced by enactment of the Local Transport Act 2008. The duties contained in this section of the DDA apply only to those vehicles deemed accessible by the local authority being used on taxi bus services. This applies to both hackney carriages and private hire vehicles.
- 18 Section 36 imposes certain duties on drivers of taxi buses to provide assistance to people in wheelchairs, to carry them in safety and not to charge extra for doing so. Failure to abide by these duties could lead to a prosecution through a Magistrates Court and a maximum fine of £1,000.
- 19 Local authorities can take action against non taxibus drivers who do not abide by their duties under Part 3 or under section 37 of the DDA .... This could involve for example using licence conditions to

implement training requirements or, ultimately, powers to suspend or revoke licences. Some local authorities use points systems and will take certain enforcement action should drivers accumulate a certain number of points. ....

### **Duty to carry assistance dogs**

- 20 Since 31 March 2001, licensed taxi drivers in England and Wales have been under a duty (under section 37 of the DDA) 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 an exemption from the duty on medical grounds. Any other driver who fails to comply with the duty could be prosecuted through a Magistrates Court and is liable to a fine of up to £1,000. Similar duties covering PHV operators and drivers have been in force since 31 March 2004.
- 21 Enforcement of this duty is the responsibility of local licensing authorities. It is therefore for authorities to decide whether breaches should be pursued through the Courts or considered as part of the licensing enforcement regime, having regard to guidance issued by the Department.

### **Duties under Part 3 of the DDA**

- 22 The Disability Discrimination Act 2005 amended the DDA 1995 and lifted the exemption in Part 3 of that Act to operators of transport vehicles. Regulations apply in Part 3 to vehicles used to provide public transport services, including taxis and PHVs, hire services and breakdown services came into force on 4 December 2006. Taxi drivers now have a duty to ensure disabled people are not discriminated against or treated less favourably. In order to meet these new duties, licensing authorities are required to review any practices, policies and procedures that make it impossible or unreasonably difficult for a disabled person to use their services.
- 23 The Equality and Human Rights Commission (formerly the Disability Rights Commission) has produced a Code of Practice to explain the Part 3 duties for the transport industry;... The Part 3 duties also now demand that new skills and training is available through Go Skills, the Sector Skills Council for Road Passenger Transport. ....
- 24 Local authorities may wish to consider how to use available courses to reinforce the duties drivers are required to discharge under section 3 of the DDA, and also promote customer service standards.
- 25 In addition, recognition has been made of a requirement of basic skills prior to undertaking any formal training. Online tools are available to assess this requirement prior to undertaking formal training.”

7. In some areas the security of the drivers is a real issue. Under the heading of "Vehicles" therefore the Government proposes the following:
  - "29 The owners and drivers of vehicles may want to make appropriate adaptations to their vehicles to help improve the personal security of the drivers. Licensing authorities should look favourably on such adaptations."
8. Under Vehicle Testing the Government has inserted the following:
  - "32 The Technical Officer Group of the Public Authority Transport Network has produced best practice guidance which focuses on national inspection standards for taxis and PHVs. Local licensing authorities might find it helpful to refer to this guidance in carrying out their licensing responsibilities. The PATN can be accessed via the Freight Transport Association." [NB this is the standard used by the garages authorised to test vehicles on behalf of the Council].
9. Again on the issue of security the Government propose
  - "33 The personal security of taxi and PHV drivers and staff needs to be considered. The Crime and Disorder Act 1998 requires local authorities and others to consider crime and disorder reduction whilst exercising all of their duties. Crime and Disorder reduction partnerships are also required to invite public transport providers and operators to participate in the partnerships. Research has shown that anti-social behaviour and crime affects taxi and PHV drivers and control centre staff. It is therefore important that the personal security of these people is considered.
  - 34 ... There is extensive information on the use of CCTV, including as part of measures to reduce crime, on the Home Office website ...
  - 35 Other security measures include guidance, talks by the local police and conflict avoidance training. The Department has recently issued guidance for taxi and PHV drivers to help them improve their personal security. ... In order to emphasise the reciprocal aspect of the taxi/PHV service, licensing authorities might consider drawing up signs or notices which set out not only what passengers can expect from drivers but also what drivers can expect from passengers who use their service. Annex B contains two samples which are included for illustrative purposes but local authorities are encouraged to formulate their own in the light of local conditions and circumstances".
10. With regard to the environment, the existing policy suggests that licensing authorities will wish to consider how far their vehicle licensing policies can and should support any local environmental policies. The proposed guidance adds

- “37 ... this will be of particular importance in designated air quality management areas (AQMAS) ... They should also bear in mind the need to ensure that the benefits of any policies outweigh the costs (in whatever form)”.
11. The existing guidance contains provisions regarding the licensing of stretched limousines. The proposed revision suggests

“38 .... Indeed there is considerable advantage to having these vehicles within the licensing regime where possible; if they are refused a licence on the basis of a blanket policy, there is a strong possibility that the operator might be tempted to continue to provide a service outside the licensing system which generates problems in itself.”

The Department has now issued guidance on licensing stretch limousines. The draft revised guidance also states

- “39 ... The [Single Vehicle Approval (SVA)] test verifies that the converted vehicle is built to certain safety and environmental standards. A licensing authority might wish to confirm that an imported vehicle was indeed tested by VOSA for SVA before being registered and licensed (taxed) by DVLA. This can be done either by checking the V5C (Registration Certificate) of the vehicle which may refer to SVA under the “Special Note” section; or by writing to VOSA .... including details of the vehicle’s make and model, registration number and VIN number”.
12. Amendments have been made to the extremely limited guidance on the “fit and proper person” test. Under Criminal Record Checks a new paragraph has been inserted “A criminal record check is an important safety measure particularly for those working closely with children and the vulnerable. Taxi and PHV drivers can be subject to either a standard or an enhanced disclosure through the Criminal Records Bureau; both levels of disclosure include details of spent and unspent convictions, cautions, reprimands and final warnings. An enhanced disclosure may also include any other information held in police records that is considered relevant by the police. This may include, for example, details of minor offences, non-conviction information on the police national computer such as fixed penalty notices and, in some cases, allegations. An enhanced disclosure is only available to those working in the most sensitive areas”. It adds

“57 ... A new scheme for vetting persons working regularly with children or vulnerable adults in certain settings – called “regulated activity” and barring those considered unsuitable is being introduced by the Government. Vetting will be carried out by the independent safeguarding authority and will be compulsory for those providing regulated activity. This is likely to affect some taxi and PHV drivers who, for example, regularly fulfil local authority contracts to transport children to school. Full details of this scheme will be provided as implementation proceeds.

### **Notifiable Occupations Scheme**

- 58 Under this scheme when an individual comes to the notice of the police and identifies their occupation as a taxi or PHV driver, the police are requested to notify the appropriate local licensing authority of convictions and any other relevant information that indicates that a person poses a risk to public safety. Most notifications will be made once an individual is convicted however, if there is a sufficient risk, the police will notify the authority immediately.
- 59 In the absence of a national licensing body for taxi and PHV drivers, notifications are made to the local licensing authority identified on the licence or following interview. However, it is expected that all licensing authorities work together should they ascertain that an individual is operating under a different authority or with a fraudulent licence.
- 60 The police may occasionally notify licensing authorities of offences committed abroad by an individual. However, it may not be possible to provide full information.
- 61 The Notifiable Occupations Scheme is described in an Home Office circular 6/2006.

### **... Immigration Checks**

- 62 The Department considers it appropriate for licensing authorities to check on an applicant's right to work before granting a taxi or PHV driver's licence. It is important to note that a Criminal Records Bureau check is not a right to work check and any enquiries about the immigration status of an individual should be addressed to the Border and Immigration Agency. ...

### **Medical Fitness**

- 63 It is clearly good practice for medical checks to be made on each driver before the initial grant of a licence and thereafter for each renewal. There is a general recognition that it is appropriate for taxi/PHV drivers to have more stringent medical standards than those applicable to normal car drivers because:
- They carry members of the general public who have expectations of a safe journey;
  - They are on the road for longer hours than most car drivers; and
  - They may have to assist disabled passengers and handle luggage.
- 64 Given this recognition of the need for a higher standard of medical checks for taxi drivers than for other car drivers, the Department's view

is that it is appropriate to use the Group 2 medical standards, which the DVLA apply to applicants for licences to drive buses and lorries as a benchmark. The Department's advice is that the exceptional arrangements that apply to the C1 category are not appropriate for taxi/PHV drivers ...

65 In implementing this standard, authorities should take into account that assessment of the Group 2 standard is a complex process requiring specialist skills. Against that background it is important for a local authority with a policy of assessing applicants for Group 2 medical standards to use the services of a medical practitioner who is trained, or experienced, in the application of this standard. This will provide assurance to the authority, and licence applicants that all assessments are being made on a consistent basis by a practitioner who is familiar with the requirements of Group 2, including any surveillance requirements.

66 Given that it is likely that in most cases local authorities will, for other purposes have to call on the services of a qualified medical practitioner this advice should not represent a significant new cost to authorities. Furthermore, practitioners used by the authority can be encouraged to widen the scope of their expertise by assigning a small proportion of their annual mandatory training hours to undertake a training course which will enable them to undertake assessment for taxi/PHV driver licence applicants on behalf of the authority".

13. The guidance recognises that not all persons applying for licences will have English as their first language and provides

**"Language Proficiency**

69 Authorities may also wish to consider whether an applicant would have any problems in communicating with customers because of language difficulties."

14. There is a minor amendment to the guidance on other trading

"70 ... training may also be considered for applicants to enable them to reach an appropriate standard of comprehension, literacy and numeracy."

15. There is an additional provision under the heading of "Topographical Knowledge". Namely

"72 .... The Department is aware of circumstances where as a result of the repeal of the PHV contract exemption, some people who drive children on school contracts are being deterred from continuing to do so on account of overly burdensome topographical tests. Local authorities should bear this in mind when assessing applicant's suitability for PHV licences."



- 16 There is a prospective amendment to the guidance from Criminal Records checks for vehicle operators suggesting that once a system is in place that such operators could be subject to a basic CRB disclosure check which would provide details of unspent convictions only.
- 17 There is already a requirement for operators to keep records of each booking including the name of the passenger, destination, name of the driver, number of the vehicle and any fare quoted at the time of booking. The revised guidance adds “this information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement.”
18. There is new guidance following the repeal of the PHV Contract Exemption as follows:
- “78 Section 53 of the Road Safety Act 2006 repealed the exemption from PHV licensing of vehicles which were used on contracts lasting not less than 7 days. The change came into effect in January 2008. As a result of this change, local licensing authorities are considering a range of vehicles and services in the context of PHV licensing which they had not previously licensed because of the contract exemption.
- 79 The Department produced a guidance note in November 2007 to assist local licensing authorities, and other stakeholders, in deciding which vehicles should be licensed in the PHV regime and which licences fell outside the PHV definition. ... the guidance was published as a way of assisting people who needed to consider these issues ....”
- 19 The revised guidance comments upon enforcement. It provides
- “81 ... In formulating policies to deal with taxi touts, local licensing authorities might wish to be aware that the Sentencing Guidelines Council, have for the first time, included guidance about taxi touting in their latest guidelines for magistrates.” [Members may be interested to know that the maximum sentence for taxi touting is a fine of £2,500].
- “84 Section 52 of the Road Safety Act 2006 amended the Local Government (Miscellaneous Provisions) Act 1976 such that local authorities can now suspend or revoke a taxi or PHV driver’s licence with immediate effect on safety grounds. It should be stressed that this power can only be used where safety is the principal reason for suspending or revoking and where the risk justifies an approach. It is expected that in the majority of cases drivers will continue to work pending an appeal and that this power will be used in one-off cases. But the key point is that the law says that the power must be used in cases which can be justified in terms of underlying safety”.
20. There are minor amendments to the guidance on taxi zoning which I shall not comment on as we do not apply taxi zones.

21. The current guidance on taxibuses is augmented by the following "... the Local Transport Act 2008 contains a provision which will allow the owners of PHVs to acquire a special PSV Operator Licence and register a route with the Traffic Commissioner. It is expected that this provision will be commenced in the spring of 2009. Separate guidance will be provided".
22. Attached is an appendix setting out the questions posed by the Government with suggested responses.

### **Risk Analysis**

20. As this is merely a consultation paper there are no risks associated with this report. When revised guidance is published it will be necessary for members to consider its currently policy against the revised guidance and determine what alterations (if any) it wishes to make to its policy in the light of the guidance. A risk analysis will be appropriate at that stage.

## TAXI AND PRIVATE HIRE VEHICLE LICENSING CONSULTATION ON REVISED BEST PRACTICE GUIDANCE

Pro-forma for use when responding

**Name of respondent** Uttlesford District Council  
**Organisation (if applicable)**  
**Interest (e.g. trade; local authority; passenger interest)** Local Authority

Q1. Have you found the Best Practice Guidance useful?	No
Q2. Has your local authority, since publication of the Guidance in October 2006, undertaken a review of its taxi and PHV licensing policies?	Yes
Q3. Can you offer any examples of instances where local policies have been amended to reflect the advice in the original Best Practice Guidance?	Yes – the Council moved to Group 2 medical standards and outsourced vehicle testing.
Q4. Do you consider that any issues in the original guidance where changes are not proposed should be revised?	No
Q5. Do you consider that there are issues which are not currently covered in the Guidance which could usefully be covered?	In the Home Office circular issued in 1992 there was guidance on the approach to be taken in determining whether an applicant was a fit and proper person which was omitted from the 2006 guidance. The 1992 guidance is considered outdated and new updated guidance on this issue would be helpful.
Q6. Do you have any comments on the proposed guidance about accessibility (paras 13-19)	No but comprehensive regulations in this area are long overdue. Owners are understandably reluctant to purchase accessible vehicles which cost more than standard vehicles when there is a risk that they may become obsolete under government legislation in the near to medium term.

<p>Q7. Do you have any comments on the proposed guidance about the duty to carry assistance dogs (paras 20-21)?</p>	<p>This is welcomed.</p>
<p>Q8. Do you have any comments on the proposed guidance about duties under the Part 3 of the Disability Discrimination Act 1995 (paras 22-25)?</p>	<p>Ditto</p>
<p>Q9. Do you have any comments on the inclusion of a reference to the national inspection standards drawn up by the Public Authority Transport Network (para 32)?</p>	<p>The Council is examining its current requirements against this standard. In principal it does not object to a reference to it in the Guidance.</p>
<p>Q10. Do you have any comments on the proposed guidance about drivers' personal security (paras 29; and 33-35)?</p>	<p>None.</p>
<p>Q11. Do you have any comments on the proposed guidance about stretched limousines (paras 38-40)?</p>	<p>This Council has a policy which permits the licensing of stretched limousines but currently does not licence any. We are reviewing our standards against the Department's guidelines but broadly welcome the approach contained in the Guidance.</p>
<p>Q12. Do you have any comments on the proposed guidance about criminal record checks on drivers (paras 54-57)?</p>	<p>This accords with current practice</p>
<p>Q13. Do you have any comments on the proposed guidance about the Notifiable Occupations Scheme (paras 58-61)?</p>	<p>This would be welcomed as the Council is reliant on driver's to come forward with this information. Past experience has indicated that convictions are not always promptly notified (if at all).</p>
<p>Q14. Do you have any comments on the proposed guidance about Immigration checks (para 62)?</p>	<p>This appears to be an over arduous imposition on the licensing authority who are obliged by the legislation to grant licenses to those who hold and have held a driving licence for 12 months unless they are not satisfied that the applicant is a fit and proper person. Whilst arguably a person's</p>

	immigration status could be relevant to determining whether an applicant is a fit and proper person it should be for the applicant to satisfy the licensing authority that (s)he is permitted to work in the UK, not for the authority to make enquiries.
<p>Q15. The Government is minded to remove reference to the exceptional C1 arrangements in the original guidance. However, in making a final decision, we would welcome feedback from stakeholders about the possible change. Do you have any evidence about the extent to which taxi/PHV drivers are currently licensed on the basis of the C1 arrangements (paras 63-64)?</p>	<p>We have no experience of drivers being licensed on the basis of C1 arrangements.</p>
<p>Q16. Do you think that it is appropriate for the proposed guidance to make no reference to the use of the C1 arrangements for insulin-treated drivers; please explain your reasons (paras 63-64)?</p>	<p>No, such an omission would make the policy too rigid. If an applicant is able to demonstrate there is no risk to the public then a licence should be granted despite the policy.</p>
<p>Q17. Do you have any comments on the proposed guidance about medical fitness (other than comments in relation to the C1 arrangements) including the proposed references to use of medical practitioners who are trained in the application of Group 2 medical standards? Would this add to costs? If so, would this be justified? (paras 63-66)?</p>	<p>The Council is not convinced that any specialist training or experience is necessary to be able to interpret the standards. In the event a doctor chosen by an applicant did not feel competent to conduct the examination the Council would expect him or her to decline the request for a certificate. Restricting the choice of doctors may lead to quasi monopoly situations arising thereby increasing the costs. This would appear to be unjustified.</p>

<p>Q18. Do you have any comments on the proposed guidance about language proficiency (para 69)?</p>	<p>The Council has a condition dealing with language proficiency.</p>
<p>Q19. Do you have any comments on the proposed guidance about other training (para 70)?</p>	<p>It is not considered appropriate for licensing authorities to test for this. Any training required should be the responsibility of the operators/proprietors.</p>
<p>Q20. Do you have any comments on the proposed guidance about topographical knowledge (paras 71-72)?</p>	<p>This Council does not require applicants to pass a knowledge test. Whilst local knowledge may be important for a hackney carriage driver with the advent of satellite navigation it is far less so particularly in rural areas such as Uttlesford. However the Council can understand the point the Department is making and does not object to its inclusion in the guidance.</p>
<p>Q21. Do you have any comments on the proposed guidance about criminal record checks on PHV operators (para 74)?</p>	<p>This is welcomed.</p>
<p>Q22. Do you have any comments on the proposed guidance about the repeal of the PHV contract exemption (paras 78-79)?</p>	<p>It is difficult to see what this adds to the guidance already published.</p>
<p>Q23. Do you have any comments on the proposed guidance about enforcement (paras 80-84)?</p>	<p>The Council believes that insufficient assistance is given in interpreting what is necessary for public safety. For example is it in the interests of public safety to immediately suspend a driver accused of a serious assault pending trial?</p>
<p>Q24. Do you have any comments on the proposed guidance about taxibuses (para 90)?</p>	<p>No</p>