

Taxis and private hire vehicles: the road to reform: Government Response to the Committee's Seventh Report of Session 2010-12 - Transport Committee [Contents](#) (Published July 2011)

Government Response

Introduction

The Government is grateful to the Transport Committee for undertaking an inquiry into taxis and private hire vehicles (PHVs). The Committee's report provides a helpful analysis of the issues and it demonstrates just how complex those issues can be—and how widely opinion varies about the best way of moving forward.

The Government has now considered the Transport Committee's Report and specifically its 14 recommendations a response to each is given in this publication.

Coincidentally, on the same day that the Committee published its report, the Law Commission announced that, as part of its Eleventh Programme of Law Reform, it intends to undertake a comprehensive review of taxi and private hire vehicle legislation.

So whilst the Government notes the Committee's recommendation that the Department for Transport should undertake an in-house review rather than handing over the issue to the Law Commission, the Law Commission is now undertaking a review. The Minister, Norman Baker, indicated on 15 March 2011 whilst giving oral evidence that the Government regarded a Law Commission review as a sensible way to proceed and the Law Commission agreed that a review of taxi legislation fitted in with their criteria for taking on projects.

The Law Commission is an independent body with a statutory remit to modernise and simplify the law. The Government has indicated that it wants the review to be underpinned by a deregulatory objective commensurate with maintaining satisfactory levels of safety. Beyond that, the Law Commission has been charged with carrying out a root and branch review with a view to providing recommendations and drawing up a draft Bill.

Against that background, the Government is clear that this response should not fetter the discretion that has been given to the Law Commission. Whilst it is entirely reasonable for the Government to give an indication of what it thinks of each of the Committee's recommendations, it must be stressed that in doing so, the Government is not intending to lead the Law Commission towards a particular conclusion or close off any particular avenue of consideration.

Recommendations

Recommendation 1. In our view, the case for a thorough overhaul of the legislation relating to taxis and private hire vehicles is irresistible. (Paragraph 14)

DfT response: The Government agrees that there is a strong case for overhauling the legislation governing taxis and private hire vehicles. That is why the Government has asked the Law Commission to undertake a comprehensive review of the legislation.

Recommendation 2. We recommend that, instead of referring reform of taxi and PHV legislation to the Law Commission, the Government should engage with the trade, local authorities and users about the objectives of future legislation on taxis and private hire vehicles and commit to overhaul that legislation during the course of this Parliament. Once these objectives are decided, the detailed work to frame legislation and guide it through Parliament should begin. This need not involve primary legislation: we consider that the swifter legislative reform order procedure could be used in this case. (Paragraph 15)

DfT response: The Government does not consider that referring the review of taxi and PHV legislation to the Law Commission is in any way inappropriate. On the contrary, the Government considers that the Law Commission is the ideal body to undertake such a review. Its fundamental purpose is to review complex areas of law, it has experience and expertise in carrying out this function and with its independent status comes an ability to assess the issues in an objective way. The Government is satisfied that the Law Commission will undertake an effective and productive review, the final report of which will be delivered during the lifetime of the current Parliament.

The Government is not inclined towards the legislative reform order route to establish a new legislative framework for taxis and PHVs. Whilst the Government expects the draft Bill produced by the Law Commission to have a good degree of support, there will be substantive and controversial issues to be addressed and the Government considers that these would best be considered and debated during the passage of a Bill through Parliament.

PRINCIPLES TO UNDERPIN NEW LEGISLATION

Recommendation 3. We recommend that, in developing proposals for changing the legislation applying to taxis and PHVs, the Government should commission authoritative research into consumers' opinions. Particular attention should be paid to the views of vulnerable groups, such as disabled people, who are often most reliant on taxis and PHVs. (Paragraph 18)

DfT response: The Government accepts that seeking the views of users is a vital element of undertaking any reform of the taxi and PHV legislation. The Government does not, however, accept that a dedicated research project is needed. The Law Commission will engage with consumer organisations—in

order to gain a full understanding of the views of everyone with a stake in this sector—as part of its review of the legislation.

Recommendation 4. We recommend that the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 should be replaced by a single Act or legislative reform order, covering both taxis and PHVs. (Paragraph 19)

DfT response: The Government notes this recommendation. Without wanting to pre-empt the Law Commission's review, it seems clear that a sensible and desirable outcome from the review would be a single Act of Parliament covering both taxis and private hire vehicles.

Recommendation 5. We recommend that the Government provide clearer guidance to local authorities on how taxis and PHVs should be included in local transport plans. (Paragraph 21)

DfT response: Under the Government's commitment to localism, the Department for Transport will not intervene in the way local authorities review their progress against LTPs or require reports or reviews. While local authorities had a statutory duty to produce LTPs by April 2011 it will be for them to decide how to implement and use them.

Recommendation 6. There are strong arguments in favour of national standards in relation to issues which directly relate to public safety, such as the level of CRB check drivers require, the roadworthiness of vehicles and drivers whose licences have been revoked being licensed shortly afterwards by a different district. We recommend that new legislation in this area should provide for this. (Paragraph 23)

DfT response: The Government agrees with this recommendation in principle. There are certain elements of the licensing process where the public would, quite reasonably, expect there to be a degree of consistency throughout the country. We expect the details of the extent of nationally-imposed criteria to be considered in the context of the Law Commission's review.

Recommendation 7. We agree with the Minister that the licensing of taxis and PHVs should remain a local function, not least because of the likely cost and complexity of instituting a national system. (Paragraph 23)

DfT response: Local authorities do, indeed, seem well-placed to deal with this form of transport. They have a good deal of experience and expertise in administering the licensing function and a continuing role for them would obviate the need to establish a new licensing system. However, the Government does not want to pre-empt the Law Commission's fundamental review of the legislation, and would be willing to consider the case for an alternative approach.

Recommendation 8. We recommend that any legal barriers to co-operation between local authorities and innovation in organising and

funding enforcement activity in relation to taxis and PHVs should be reviewed as part of the process of legislative reform. (Paragraph 25)

DfT response: The Government agrees with this recommendation in principle. There would seem to be advantages in enabling local licensing authorities to collaborate over enforcement funding and activity. The Law Commission will consider enforcement strategy and activity carefully as part of their review.

Recommendation 9. We are sympathetic to the argument that offences relating to taxis and PHVs, such as plying for hire, should be dealt with by fixed penalty notices rather than court action and we recommend that the Government should move in this direction when it comes to reform the legislation in this area. (Paragraph 26)

DfT response: The Government accepts that there is merit in considering whether certain offences could be appropriately dealt with by fixed penalty notices. The use of fixed penalty notices is a cost-effective way of dealing with certain low-level offences of an objective nature. We will consider whether there is scope for making use of this form of enforcement for certain low-level taxi and PHV-related offences. The Law Commission will consider the extent to which fixed penalty notices can be incorporated into a more modern regulatory system.

Recommendation 10. We recommend that new legislation should permit existing licensing districts to be combined where local authorities decide it is best to do so. (Paragraph 28)

DfT response: The Government accepts this recommendation in principle. A local authority-based approach to taxi and PHV licensing has advantages in terms of enabling people who know and understand local conditions, circumstances and needs to make decisions. Those same local authorities will also know best when it is desirable or appropriate to combine licensing areas in order that they secure the economies of scale associated with such a policy and that passengers get a more efficient service. Whilst accepting that this recommendation is attractive, the details, for example of how many licensing authorities should be allowed to combine, the extent to which taxi drivers will be compelled to accept hirings within a larger district and whether such a combination should be reversible, will have to be considered by the Law Commission.

SOLVING THE CROSS-BORDER HIRE PROBLEMS

Recommendation 11. We recommend that it should be permissible for taxi and PHV licences to include a condition that the vehicle must principally be operated in the licensing district. A similar provision should also be permitted in relation to driver licences. (Paragraph 30)

DfT response: The Government understands the concerns that some have about the present position but is not convinced that this recommendation (which it understands to relate solely to pre-booked hirings, rather than

immediate hirings at ranks or by being hailed in the street) is a suitable way of dealing with the cross border issues considered by the Committee.

Such a restriction would work against those operators who were located at the edge of a local authority's area and it would work against those operators who were dedicated to long-distance trips eg airport runs where a large proportion of the distance travelled would be beyond the local authority's border. Operators would end up sending for an out-of-district hiring not the nearest driver, but a driver who had not yet reached his limit on out-of-district journeys—and this would increase dead mileage, with adverse environmental implications. In short, it does not sit neatly with a deregulatory approach to reforming taxi and PHV legislation.

Moreover, a restriction of this nature could confuse and unfairly penalise passengers who would be unable to use the operator of their choice.

On a practical level, it would involve local authorities establishing a whole new tier of enforcement activity—at some cost, which might be added to the licence fee—in order to determine which vehicle owners and which drivers had exceeded their quota of out-of-district hirings.

The Government recognises that the Committee's underlying concern is to avoid the situation where taxi drivers are licensed in the north of the country and then locating themselves in the south of the country in order to undertake pre-booked hirings. The Government would note that there are alternative approaches to that proposed by the Transport Committee, for example, obliging licensed operators to use only vehicles (whether taxi or private hire) licensed by the same local authority as granted their operator licence.

The Government, in proposing this possible alternative approach, is not intending to fetter the Law Commission's discretion in undertaking a comprehensive review of the legislation, it is simply demonstrating that there are various potential means of addressing this particular issue.

The Law Commission will, as part of its review, consider the wider picture including why this is actually happening and propose a way forward in that context.

Recommendation 12. In addition, new legislation should permit local authorities to issue fixed penalty notices to out-of-town drivers where there is evidence, for example, that they have worked, or sought to work, for a specified period of time in that district. Local authorities should also be enabled to prosecute operators in other districts which are routinely sending cars to work in their area. (Paragraph 30)

DfT response: The Government does not agree with this recommendation. For the reasons set out in response to recommendation 11, the Government does not consider that directly restricting the area in which a taxi or PHV driver can pick up passengers by means of a condition attached to his licence is a sensible way of proceeding against the background of a review which has a deregulatory objective at its heart.

The Government believes that fixed penalty notices are best deployed for offences which are objective and where the scope for dispute is minimal (for example a driver either was, or was not, wearing his badge). The question of how many out-of-district journeys a driver might have undertaken as a proportion of his overall total number of journeys would be far from straightforward to determine at any time, and particularly not "on-the-spot".

Recommendation 13. In our view it is essential that local authorities justify their approach to the use of these controls in local transport plans, alert drivers and operators in neighbouring districts to their intention to use such powers; and provide adequate warnings to drivers and operators before issuing fixed penalty notices or initiating prosecutions. (Paragraph 31)

DfT response: The Government does not agree with this specific recommendation as it is not convinced that directly restricting the area in which a driver can accept a pre-booked hiring is a desirable way forward.

Conclusion

Recommendation 14. We call on the Government to set out its policy proposals before the end of the year, with a view to holding a consultation exercise in 2012, introducing draft legislation in 2013-14 and taking an Act or legislative reform order through Parliament before the next general election. (Paragraph 33)

DfT response: The Government has asked the Law Commission to carry out a comprehensive review of taxi and PHV licensing and they have agreed to include it in their Eleventh Programme of Law Reform starting in July 2011. The Law Commission's timetable involves them undertaking a consultation exercise in 2012. The Government's plans for introducing draft legislation arising from the Law Commission's review are still subject to consideration.