

---

**Report to:** Licensing & Regulatory Committee

**Date of Meeting:** 3<sup>rd</sup> June 2013

**Subject:** Reforming the Law of Taxi and Private Hire Services – An Update

**Report of:** Director of Built Environment

**Wards Affected:** All

**Is this a Key Decision?** No

**Is it included in the Forward Plan?**  
No

**Exempt/Confidential** No

---

### **Purpose/Summary**

To advise Members of the Government and the Law Commission responses to the consultation about reforming the Law of Taxi and Private Hire Services.

### **Recommendation(s)**

That Members note this Report and its contents.

### **How does the decision contribute to the Council's Corporate Objectives?**

	<b><u>Corporate Objective</u></b>	<b><u>Positive Impact</u></b>	<b><u>Neutral Impact</u></b>	<b><u>Negative Impact</u></b>
1	Creating a Learning Community		√	
2	Jobs and Prosperity		√	
3	Environmental Sustainability		√	
4	Health and Well-Being		√	
5	Children and Young People		√	
6	Creating Safe Communities	√		
7	Creating Inclusive Communities		√	
8	Improving the Quality of Council Services and Strengthening Local Democracy		√	

**Reasons for the Recommendation:**

To give Members an overview of the issues raised by the Law Commission Review of Taxi and Private Hire Services

**What will it cost and how will it be financed?**

**(A) Revenue Costs**

None.

**(B) Capital Costs**

None.

**Implications:**

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

<b>Legal</b>	The Head of Corporate Legal Services (LD1575/13) has been consulted and has no comments to add.
<b>Finance</b>	The Head of Corporate Finance and ICT (FD2257/13) notes at this stage of the review there are no direct financial implications arising from this report
<b>Human Resources</b>	None
<b>Equality</b>	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

**Impact on Service Delivery:**

The consultation does not impact on the work of the Taxi Licensing Team at this time. A further report will be presented to members following the publication of the Law Commission's final report and draft Bill in November 2013

**What consultations have taken place on the proposals and when?**

Taxi Licensing Team, June 2012

Hackney Carriage & Private Hire Joint Trades Working Group 26<sup>th</sup> June 2012

**Are there any other options available for consideration?**

No

## Implementation Date for the Decision

N/A

**Contact Officer:** Andrew Naisbitt  
**Tel:** 0151 934 4014  
**Email:** andrew.naisbitt@sefton.gov.uk

## Background Papers:

- Town Police Clauses Act 1847
- Local Government (Miscellaneous Provisions) Act 1976
- Law Commission Consultation Paper No 203 – “Reforming The Law Of Taxi and Private Hire Services”, see website [http://lawcommission.justice.gov.uk/docs/cp203\\_taxi-and-private-hire-services.pdf](http://lawcommission.justice.gov.uk/docs/cp203_taxi-and-private-hire-services.pdf)
- Local Government Association Briefing 8<sup>th</sup> June 2012 - “Reforming the law of taxi and private hire services”
- Reforming the Law of Taxi and Private Hire Services – A Consultation Paper (L&R 30<sup>th</sup> July 2012)
- “Government response to the consultation exercise March 2013”
- “Law Commission Interim Statement April 2013”

### 1. Background

- 1.1 Members will recall the report “Reforming the Law of Taxi and Private Hire Services” presented on 30<sup>th</sup> July 2012. The report introduced Sefton Council’s response to the Law Commission Consultation Paper 203.
- 1.2 The report advised that in July 2011, the Law Commission announced that it had been asked to review the law relating to the regulation of taxis and private hire vehicles, with a view to its modernisation and simplification, having due regard to the potential advantages of deregulation in reducing burdens on business and increasing economic efficiency and invited comments on its proposals.
- 1.3 The consultation attracted over 3000 written responses from a wide range of stakeholders and both the Government and Law Commission have published statements in response to the consultation. This report summarises the key points of those statements.

### 2. Government response to the consultation exercise – March 2013.

- 2.1 The Government’s response is a broad position statement and identifies areas where they consider that the Law Commission could carry out further investigation or consideration before reaching a conclusion.
- 2.2 The first point made by the Government is that the overall outcome of the review should make the legislative framework for taxis and private high vehicles less burdensome than at present. It suggests non-regulatory measures should be considered as far as possible and new regulatory measures should only be proposed where there is a strong cost benefit analysis, a clear indication of market

failure and strong evidence of why regulation is necessary. The Government also urges the Law Commission to consider the concept of “grandfather rights” where there are any elements or details of the existing licensing system which might be allowed to continue. The Government also wants the legislation to be framed in such a way as to give the Government sufficient flexibility to draw up any necessary secondary legislation or guidance.

### 2.3 The Government’s key points are as follows:

- a) The Government agrees with the Law Commission’s proposal that regulation should continue to distinguish between taxis, which can be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares;
- b) That it secures legislation which captures the right people and services and makes it abundantly clear to all transport providers and to all those responsible for licensing and enforcement who should be licensed and who does not need to be licensed;
- c) That London should be included within the scope of the reform and that a single regulatory system should be established across the whole country;
- d) That there is no case for requiring the licensing of wedding and funeral services;
- e) That Government does have a particular concern about the provision of taxi services at airports. It has doubts whether a sole concession with a private hire company offers a fair deal for passengers;
- f) The Government wants a clear definition for taxi and private hire so consumers are clear which vehicles they are able to hail;
- g) That the leisure and non-professional use of taxis and private hire vehicles should be permitted and that the term “hackney carriage” should be abandoned in favour of “taxi”;

#### Reformed Regulatory Framework

- h) That a national approach to safety standard setting will simplify the licensing process and provide a more level playing field for the trades throughout the country;
- i) That in relation to private hire vehicles, national safety standards set by the Secretary of State should be the only applicable licensing standards;
- j) That a national system of private hire vehicle operation will have a substantial liberalising effect on the private hire trade and make it better responsive to passenger needs;
- k) That in relation to taxis, local licensing authorities should retain the power to set standards locally above the national minimum framework;

- l) That there is a considerable advantage in allowing licensing authorities to co-operate or combine and it should be facilitated in new legislation;
- m) The Government does not favour the creation of zones within a licensing area;
- n) The Government agrees with the proposal that licensing authorities should retain the ability to regulate maximum taxi fares but not to have any power to regulate private hire vehicle fares;

#### Licensing

- o) The Government wants the new regulatory framework as easy to use as possible;
- p) The Government believe that operator licensing should be retained as mandatory in respect of private hire vehicles, that definitions should be clarified and operators should be expressly permitted to sub-contract services;

#### Quantity Control

- q) The Government believes licensing authorities should no longer have the power to restrict taxi numbers and a staggered or phased removal of the power to control taxi numbers might be a sensible way to proceed;

#### Equality

- r) The Government does not consider it necessary at the moment to establish a separate licence category for wheel chair accessible vehicles even though it recognises the importance of taxis and private hire vehicles for people with disabilities;

#### Enforcement

- s) The Government does not consider it appropriate to extend the important and specialised power of stopping moving vehicles to taxi licensing officers;
- t) The Government is concerned about 'touting' and believes that impounding vehicles that breach rules would be a step too far. It also considers there is scope for greater use of fixed penalty schemes;
- u) The Government agrees that enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas and that enforcement powers across boundaries has to be carefully considered and also funded; and

#### Appeals

- v) The Government agrees that the right to appeal against licensing decisions should be limited to the applicant or licence holder and that the magistrates' court is the right place to hear such appeals and to be the place of the final appeal.

### **3. The Law Commission Interim Statement - April 2013**

- 3.1 In July 2011 the Law Commission started work on the project to review the law relating to the regulation of taxis and private hire vehicles. A four month consultation started in May 2012 outlining provision proposals and questions, with a view to publishing a final report and draft bill by the end of 2013.
- 3.2 It is not normal practice for the Law Commission to publish any indication of its preferred policy, but it has recognised that many stakeholders are concerned about possible changes to the taxi and private hire licensing laws.
- 3.3 The Law Commission is keen to stress that this is an interim statement and not the final report and that the final recommendations might differ from the current position. They also go on to say that their recommendations cannot change the law and the decision whether to accept any proposed policy rests with the government.
- 3.4 The Law Commission's key points are as follows:
- a) The consultation attracted over 3000 written responses from a wide range of stakeholders, including taxi drivers and private hire operators, licensing officers, disability groups, trade unions and the police;

#### The Two Tier System

- b) The two-tier system, distinguishing between taxis and private hire should remain and London should be included in the reforms;

#### Quantity Control

- c) That the Law Commission no longer recommend abolishing quantity controls, however they propose that in any areas where the licensing authority chooses to implement new quantity restrictions, vehicle licenses would not be transferrable, meaning that licenses would not have a saleable value. In areas that already have quantity restrictions, transfers would continue but the future of licence transfers should be reviewed;

#### Licensing

- d) That wedding and funeral cars should continue to be exempted from licensing but vehicles operating at the fringes of licensing, or outside of licensing altogether should be brought within the scope of the legislation;

#### Standards

- e) That national safety standards for both taxi and private hire services should apply, although Taxis may be subject to additional local standards;
- f) That there should only be national standards for private hire services;

#### Cross Border

- g) That taxis should only be allowed to work within their own areas but cross border working for private hire services should be freed up;

#### Operators

- h) That definitions e.g. private hire operator be tightened to remove ambiguity; and

#### Enforcement

- i) That a range of tougher powers for licensing officers including the ability to stop licensed vehicles, impounding and fixed penalty schemes be introduced. It is also recommended that such powers should apply in respect of out-of-area vehicles

### **4. Conclusions**

- 4.1 There is currently disagreement between the Government and the Law Commission on a number of key issues e.g. Quantity controls and Enforcement powers.
- 4.2 In order to complete its task the Law Commission will have to take into account a wide range of views and drawing up a firm plan of action will require a careful balancing act.
- 4.3 The Law Commission will publish its final report and a draft bill at the end of 2013.