

BEST PRACTICE GUIDANCE

Once again The LPHCA has been directly consulted on this important draft document which contains some very important BEST PRACTICE GUIDANCE.

There are some very important issues that directly affect the Taxi / Private Hire Industries and therefore all of our members both in London and Nationally.

You will of course have the ability to respond yourselves or as always submit your feedback to the association.

We will also as always consult our members and call a meeting to discuss the implications of this document.

It is vital that a Government Best Practice document is right and we must ensure that recommendations are appropriate to the needs of the travelling public and the industry. The LPHCA will therefore be making a submission on behalf of its members.



Taxi and Private Hire Vehicle Licensing: Best Practice Guidance

Department for
Transport

1. *The Department first issued Best Practice Guidance in October 2006 to assist those local authorities in England and Wales that have responsibility for the regulation of the taxi and private hire vehicle (PHV) trades.*
2. *It is clear that many licensing authorities considered their licensing policies in the context of the Guidance. That is most encouraging.*
3. *However, in order to keep our Guidance relevant and up to date, we embarked on a revision. We took account of feedback from the initial version (and we consulted stakeholders) in producing this revised version.*
4. *The key premise remains the same – 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. This Guidance is intended to assist licensing authorities but it is only guidance and decisions on any matters remain a matter for the authority concerned.*
5. *We have not introduced changes simply for the sake of it. Accordingly, the bulk of the Guidance is unchanged. What we have done is focus on issues involving a new policy (for example trailing the introduction of the Safeguarding Vulnerable Groups legislation); or where we consider that the advice could be elaborated (eg medical standards); or where progress has been made since October 2006 (eg the stretched limousine guidance note has now been published).*

THE ROLE OF TAXIS AND PHVS

6. 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.
7. Taxis and PHVs are also increasingly used in innovative ways – for example as taxi-buses – to provide innovative local transport services (see paras 88-91).

THE ROLE OF LICENSING: POLICY JUSTIFICATION

8. The aim of local authority licensing of the taxi and PHV trades is to protect the public. Local licensing authorities will also be aware that the public should have reasonable access to taxi and PHV services, because of the part they play in local transport provision. 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. Local licensing authorities will, therefore, want to be sure that each of their various licensing requirements is in proportion to 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 local licensing authorities to look carefully at the costs – financial or otherwise – imposed by each of their licensing policies. It is suggested 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 AT THE LOCAL LEVEL

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.

ACCESSIBILITY (The Department will consider emerging conclusions from the February 2009 accessibility consultation exercise; this section is therefore subject to change.)

13. *Local licensing authorities will want to consider how accessible the vehicles they license 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 PHVs. Taxis can be hired on the spot, in the street or at a rank, by the customer dealing directly with a 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. The Department has produced a leaflet on the ergonomic requirements for accessible taxis that is available from: <http://www.dft.gov.uk/transportforyou/access/taxis/pubs/research>
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 section 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 "taxibus" services. This applies to both hackney carriages and private hire vehicles.
18. Section 36 imposes certain duties on drivers of "taxibuses" 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 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 (see below). 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 actions should drivers accumulate a certain number of points. Full commencement of the provisions of section 36 was explored in the consultation mentioned above.

DUTIES 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 THE 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 for operators of transport vehicles. Regulations applying 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; http://drc.uat.room.net/PDF/4008-517-provision_and_use_of_transport_vehicles_cop.pdf. The Part 3 duties also now demand new skills and training is available through GoSkills, the sector skills council for road passenger transport. Further details are provided in the training section of this guidance.

CONTINUED ON PAGE 12 ➔



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24. **Local Authorities may wish to consider how to use available courses to re-enforce the duties drivers are required to discharge under section 3 of DDA, and also to promote customer service standards.**
25. **In addition recognition has been made of a requirement of basic skills prior to undertaking any formal training. On-line tools are available to assess this requirement prior to undertaking formal training.**

VEHICLES

Specification of Vehicle Types That May Be Licensed

26. 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.
27. 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 set down a range of general criteria, 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.
28. It is suggested that local licensing authorities should give very careful consideration to a policy which automatically rules out particular types of vehicle or prescribes only one type or a small number of types of vehicle. For example, the Department believes authorities should be particularly cautious about specifying only purpose-built taxis, with the strict constraint on supply that that implies. But of course the purpose-built vehicles are amongst those which a local authority could be expected to license. Similarly, it may be too restrictive to automatically rule out considering Multi-Purpose Vehicles, or to license them for fewer passengers than their seating capacity (provided of course that the capacity of the vehicle is not more than eight passengers).
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.**

Imported vehicles: type approval (see also "stretched limousines", paras 38-40 below)

30. 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 Individual Vehicle Approval.

Most registration certificates issued since late 1998 should indicate the approval status of the vehicle. The technical standards applied (and the safety and environmental risks covered) under each of the above are proportionate to the number of vehicles entering service. 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

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

- **Frequency of Tests.** The legal requirement is that all taxis should be subject to an MOT test or its equivalent once a year. For PHVs the requirement is for an annual test after the vehicle is three years old. An annual test for licensed vehicles of whatever age (that is, including vehicles that are less than three years old) seems appropriate in most cases, unless local conditions suggest that more frequent tests are necessary. However, more frequent tests may be appropriate for older vehicles (see 'age limits' below). Local licensing authorities may wish to note that a review carried out by the National Society for Cleaner Air in 2005 found that taxis were more likely than other vehicles to fail an emissions test. This finding, perhaps suggests that emissions testing should be carried out on ad hoc basis and more frequently than the full vehicle test.
- **Criteria for Tests.** Similarly, for mechanical matters it seems appropriate to apply the same criteria as those for the MOT test to taxis and PHVs*. The MOT test on vehicles first used after 31 March 1987 includes checking of all seat belts. 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.

* A manual outlining the method of testing and reasons for failure of all MOT tested items can be obtained from the Stationary Office see www.tsoshop.co.uk/bookstore.asp?FO=1159966&Action=Book&From=SearchResults&ProductID=0115525726

- **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 inappropriate. 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 an advantage in contracting out the testing work, and to different garages. In that way the licensing authority can benefit from competition in costs. (The Vehicle Operators and Standards Agency – VOSA – may be able to assist where there are local difficulties in provision of testing stations.)

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.**

Personal security

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

There is extensive information on the use of CCTV, including as part of measures to reduce crime, on the Home Office website (e.g. www.crimereduction.homeoffice.gov.uk/cctv/cctvminisite25.htm and <http://scienceandresearch.homeoffice.gov.uk/hosdb/cctv-imaging-technology/CCTV-and-imaging-publications> and on the Information Commission's Office website (www.ico.gov.uk). CCTV can be both a deterrent to would-be trouble makers and be a source of evidence in the case of disputes between drivers and passengers and other incidents. The local trade might be encouraged to investigate sources of funding with the local Crime and Disorder Reduction Partnership.

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. These can be accessed on the Department's website at: <http://www.dft.gov.uk/pgr/crime/taxiphv/>.

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.

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

36. 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. The licence plate is a helpful indicator of licensed status and, as such, it helps identification if licence plates are displayed on the front as well as the rear of vehicles. However, requiring some additional clearer form of 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. It is good practice for vehicle identification for PHVs to include the contact details of the operator.
 - 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

37. Local licensing authorities, in discussion with those responsible for environmental health issues, will wish to consider how far their vehicle licensing policies can and should support any local environmental policies that the local authority may have adopted. **This will be of particular importance in designated Air Quality Management Areas (AQMAs).** Local authorities may, for example, wish to consider setting vehicle emissions standards for taxis and PHVs. However, local authorities would need to carefully and thoroughly assess the impact of introducing such a policy; for example, the effect on the supply of taxis and PHVs in the area would be an important consideration in deciding the standards, if any, to be set. **They should also bear in mind the need to ensure that the benefits of any policies outweigh the costs (in whatever form).**

Stretched Limousines

38. 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. **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 takes the view that licence applications involving use of these limousines should not be automatically rejected (for example just because the vehicles may be left-hand drive). The Department **has now issued** guidance on the licensing arrangements for stretched limousines. **This can be accessed on the Department's web-site at <http://www.dft.gov.uk/pgr/regional/taxis/limousines>.**
39. Imported stretched limousines are normally checked for compliance with regulations under the Single Vehicle Approval (SVA) inspection regime (**soon to become Individual Vehicle Approval**), before they are registered. **The 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, Ellipse, Padley Road, Swansea, SA1 8AN, including details of the vehicle's make and model, registration number and VIN number.**
40. Stretched limousines which clearly have more than eight passenger seats should not of course be licensed as PHVs because they are outside the licensing regime for PHVs. However, under some circumstances the SVA regime accepts vehicles with space for more than eight passengers, particularly where the precise number of passenger seats is hard to determine. In these circumstances, if the vehicle has obtained an SVA certificate, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers, bearing in mind that refusal may encourage illegal private hire operation. Authorities should check with local MOT testing stations to find out if the station has the facilities to test such vehicles. If there is difficulty in finding a suitable station, the local enforcement office may be able to advise (contact details on <http://www.vosa.gov.uk/vosa/vosalocations/vosaenforeceme ntoffices.htm>).

CONTINUED ON PAGE 16



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QUANTITY RESTRICTIONS OF TAXI LICENCES OUTSIDE LONDON

41. 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'.
42. 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.
43. 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, the people who use taxi services.
What benefits or disadvantages arise for them as a result of the continuation of controls; and what benefits or disadvantages would result for the public if the controls were removed? Is there evidence that removal of the controls would result in a deterioration in the amount or quality of taxi service provision?
44. 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.
45. 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.
46. As to the conduct of the survey, the Department's letter of 16 June 2004 set out a range of considerations. 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 should not be

ignored. Local authorities might wish to 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.
47. 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 this Guidance.)
- ### TAXI FARES
48. 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.) Fare scales should be designed with a view to practicality. 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. Authorities may wish to consider adopting a simple formula for deciding on fare revisions as this will increase understanding and improve the transparency of the process. The Department also suggests that in reviewing fares 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.
 49. 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 ranks, 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).
 50. 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

51. 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. One argument against 3-year licences has been that a criminal offence may be committed, and not notified, during the duration of the licence. But this can of course also be the case during the duration of a shorter licence. In relation to this, authorities will wish to note that the Home Office in April 2006 issued revised guidance for police forces on the Notifiable Occupations Scheme. **Paragraphs 58-61 below provide further information about this scheme.**

52. 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.

Acceptance of driving licences from other EU member states

53. Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 as enacted stated that an applicant for a taxi or private hire vehicle (PHV) driver's licence must have held a full ordinary GB driving licence for at least 12 months in order to be granted a taxi or PHV driver's licence.

This requirement has subsequently been amended since the 1976 Act was passed. The Driving Licences (Community Driving Licence) Regulations 1996 (SI 1996 No 1974) amended sections 51 and 59 of the 1976 Act to allow full driving licences issued by EEA states to count towards the qualification requirements for the grant of taxi and PHV driver's licences. Since that time, a number of central and eastern European states have joined the EU and the EEA and the Department take the view that drivers from the Accession States are eligible to acquire a taxi or PHV driver's licence under the 1976 Act if they have held an ordinary driving licence for 12 months which was issued by an acceding State (see section 99A(i) of the Road Traffic Act 1988). To complete the picture, the Deregulation (Taxis and Private Hire Vehicles) Order 1998 (SI 1998 No 1946) gave equal recognition to Northern Ireland driving licences for the purposes of taxi and PHV driver licensing under the 1976 Act (see section 109(i) of the Road Traffic Act 1988, as amended).

Criminal Record Checks

54. **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.**

55. 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.

56. Local licensing authorities will also want to have a policy on background checks for 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 www.crb.gov.uk gives information about obtaining certificates of good conduct, or similar documents, from a number of countries. More generally, the Home Office's Employers' Helpline (0845 010 6677) can be used by licensing staff to obtain general guidance on immigration documentation, although this Helpline is not able to advise on individual cases. The authority can obtain case specific immigration status information, including whether a licensing applicant is permitted to work or details of work restrictions, from the Evidence and Enquiry Unit, Floor 12, Lunar House, Wellesley Road, Croydon CR9 2BY. Further details on the procedures involved can be obtained by contacting the Unit (020 8196 3011).
57. 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, provided drivers are obliged to report all new convictions and cautions to the licensing authority. **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 the 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 Home Office Circular 6/2006 which is available at <http://www.knowledgenetwork.gov.uk/HO/circular.nsf>. Further information can also be obtained from the Criminal Records Team, Policing Powers and Safeguarding Section, Policing Powers and Protection Unit, Fourth Floor, Peel Building, 2 Marsham Street, London SW1P 4DF; e-mail Michael.Brett-Pitt@homeoffice.gsi.gov.uk.**

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 enquires about the immigration status of an individual should be addressed to the Border and Immigration Agency. Further information can be found at www.bia.homeoffice.gov.uk/employingmigrants. More generally, the Border and Immigration Agency's Employers' Helpline (0845 010 6677) can be used by licensing staff to obtain general guidance on immigration documentation, although this Helpline is not able to advise on individual cases. The authority can obtain case specific immigration status information, including whether a licensing applicant is permitted to work or details of work restrictions, from the Evidence and Enquiry Unit, Floor 12, Lunar House, Wellesley Road, Croydon CR9 2BY. Further details on procedures involved can be obtained by contacting the Unit (020 8196 3011).*

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 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 which apply to the C1 category are not appropriate for taxi/PHV drivers. The latest edition of the DVLA At a Glance Guide sets out the current medical standards for fitness to drive: www.dvla.gov.uk/medical/ataglance.aspx (Note consultation questions seek specific comments about this issue).*

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 would enable them to undertake assessments for taxi/PHV driver licence applicants on behalf of the local authority.*

Age Limits

67. 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

68. 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.

Language proficiency

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

Other training

70. There may well be advantage in 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 the Department to raise standards in the industry and GoSkills can guide 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. **Training may also be considered for applicants to enable them to reach an appropriate standard of comprehension, literacy and numeracy.** Authorities may wish to note that nationally recognised qualifications and training programmes sometimes have advantages over purely local arrangements (for example, in that the qualification will be more widely recognised).

Contact details are: GoSkills, Concorde House, Trinity Park, Solihull, Birmingham, B37 7UQ.

Tel: 0121-635-5520 Fax: 0121-635-5521

Website: www.goskills.org e-mail: info@goskills.org

Topographical Knowledge

71. 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 pre-requisite to the first grant of a licence (though the stringency of the test should reflect the complexity or otherwise of the local geography, in accordance with the principle of ensuring that barriers to entry are not unnecessarily high).

72. 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 places such as main roads and railway stations. **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 applicants' suitability for PHV licences.**

PHV OPERATORS

73. 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.

Criminal Record Checks

74. 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, **which will provide details of unspent convictions only**, could be seen as appropriate, after such a system has been introduced by the Criminal Records Bureau. No firm date for introduction has yet been set; **however, a feasibility study has been completed**; the **Criminal Records Bureau is undertaking further work** in this regard. 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 the checks outlined above.

Record Keeping

75. 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, the number of the vehicle and any fare quoted at the time of booking. **This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement.** It is suggested that 6 months is generally appropriate as the length of time that records should be kept.

Insurance

76. 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

77. 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 may well be appropriate in the average case. Although the authority may wish to offer operators the option of a licence for a shorter period if requested.

Repeal of the PHV contract exemption

78. **Section 53 of the Road Safety Act 2006 repealed the exemption from PHV licensing for vehicles which were used on contracts lasting not less than seven 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 vehicles fell outside the PHV definition. The note stressed that it was a matter for local licensing authorities to make decisions in the first instance and that, ultimately, the courts were responsible for interpreting the law. However, the guidance was published as a way of assisting people who needed to consider these issues. A copy of the guidance note can be found on the Department's web-site: <http://www.dft.gov.uk/pgr/regional/taxis/rsa06privatehirevehicles>**

ENFORCEMENT

80. 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 wish to liaise closely with the police.
81. 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. **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. The Guidelines, which came into effect in August 2008, can be accessed through the SGC's web-site: www.sentencing-guidelines.gov.uk.**
82. 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.
83. 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.
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 such an approach. It is expected that in the majority of cases drivers will continue to work pending 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 safety.**

TAXI ZONES

85. 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.
86. 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.

87. *It should be noted that the Government has now made a Legislative Reform Order which removed the need for the Secretary of State to approve amalgamation resolutions made by local licensing authorities. The Legislative Reform (Local Authority Consent Requirements)(England and Wales) Order 2008 came into force in October 2008. Although these resolutions no longer require the approval of the Secretary of State, the statutory procedure for making them – in paragraph 25 of schedule 14 to the Local Government Act 1972 – remains the same.*

FLEXIBLE TRANSPORT SERVICES

88. 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.

89. 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. It also should be borne in mind that vehicles with a higher seating capacity than the vehicles typically licensed as taxis (for example those with 6, 7 or 8 passenger seats) may be used for flexible services and should be considered for licensing in this context.

90. 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. *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.*

91. 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' which can be accessed at: www.dft.gov.uk/stellent/groups/dft_localtrans/documents/page/dft_localtrans_504004.hcsp.

LOCAL TRANSPORT PLANS

92. 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 published in December 2004 *asked* 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. *82 LTPs covering all of England outside London have been produced and cover the period up to 2011.*

93. 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 *delivering the LTPs*. The key policy themes for such services could be availability and accessibility. *LTPs can cover:*

- 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.

Annexes for this consultation and a series of Questions and how to respond can be found at www.dft.gov.uk/consultations/open/hirevehiclelicensing/

LPHCA... *comment*

The article in the **Daily Mirror** regarding **Lancaster Private Hire** is not reflective of what we have seen first hand at the **Company**. For this and other reasons we are fully supporting our **Platinum Member** via our **Member's 'Free Legal Helpline'** with **Croner Consulting** and doing as much as we can as their **Trade Association**.

The **Press Complaints Commission** are involved and now investigating this article and the facts. Hopefully they will quickly draw their own conclusions about what has been said within the article in the **Daily Mirror** and a retraction will be forthcoming.

