

MAIDSTONE BOROUGH COUNCIL

LICENSING COMMITTEE

21 JUNE 2012

REPORT OF THE HEAD OF DEMOCRATIC SERVICES

Report prepared by Neil Harris

1. Law Commission Consultation Paper on Reforming the Law of Taxi and Private Hire Services

1.1 Issue for Decision

1.1.1 To consider an information report on the Law Commission Consultation Paper on Reforming the Law of Taxi and Private Hire Services.

1.2 Recommendation of the Head of Democratic Services

1.2.1 That the report be noted and that the Head of Democratic Services report back to the next meeting of the Committee with a detailed draft response to the Law Commissions Consultation Paper on Reforming the Law of Taxi and Private Hire Services.

1.3 Reasons for Recommendation

1.3.1 The Council has recently received the Law Commission's Consultation Paper on Reforming the Law of Taxi and Private Hire Services, reviewing the law in this area. Having only recently received this lengthy document, officers have not had an opportunity to consider all of it in detail and are not in a position to propose draft responses to the questions raised in the report yet. However, with the consultation period closing on 10 September 2012, there is still an opportunity for the next meeting of the Committee, on 30 July 2012, to consider draft responses to the consultation paper and have an opportunity to submit the Council's comments to the Law Commission.

1.3.2 However this report on the consultation paper has been submitted to the Committee at this point so that Members have an opportunity to consider the proposals being consulted upon. This will enable the Committee to understand fully the detail of the Paper and be able to work with Officers in submitting a well argued response. A copy of the Consultation Paper has been circulated separately to this agenda for Members to read.

1.3.3 The main changes being proposed within the Consultation Paper are:

- 1) National minimum safety standards for both taxis and private hire vehicles.
- 2) Changes to standard-setting: additional local standards, above the national standard, would continue to apply to taxis (for example, topographical knowledge and vehicle requirements). However, for private hire vehicles, only the national standards would apply and there would be no scope for additional local standards. However the Council is being asked about possible exceptions where local private hire standards may be retained, for example, in respect of signage.
- 3) The Commission consider that it would be easier for private hire services to operate on a national basis. It is suggested that private hire operators would no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by the same licensing authority. Sub-contracting would be allowed, as is already the case in London.
- 4) London would be regulated under the same flexible framework as the rest of England and Wales.
- 5) Licensing authorities could no longer limit the number of taxi licences.
- 6) More enforcement powers for licensing officers against out-of-borough vehicles and drivers.
- 7) Disability awareness training for drivers.
- 8) Introduction of a statutory definition of "plying for hire" (but without changing it in substance).
- 9) Weddings and funeral cars would no longer be exempted through primary legislation.
- 10) Allowing leisure use of taxis and private hire vehicles.
- 11) Bringing more vehicles within the licensing system (including for example limousines, motorbikes and pedicabs) – but giving the Secretary of State and Welsh Ministers power to make exclusions, and to set separate standards, in respect of different categories of vehicle.

- 12) Clearer exclusions for volunteers and other services where transport is not the main service provided, such as childminders.
- 13) Powers for government to issue binding statutory guidance to create greater consistency in how taxi and private hire legislation is applied.

Additionally, the Commission are asking the following questions:

- 1) a new category of wheelchair accessible vehicles;
- 2) extending operator licensing to taxi radio circuits;
- 3) possible use of the term "taxi" in respect of private hire services if used in phrases like "pre-booked taxi only";
- 4) reintroducing a (revised) contract exemption;
- 5) improving the enforcement powers of licensing officers; and
- 6) a new "peak time" taxi licence that could only be used at particular times of day as decided by the licensing authority.

1.3.4 From the above it can be seen that there are a number of proposals one of the most significant is that the Law Commission are suggesting retention of the current approach of having both taxi and private hire trades. However, they have additionally recommended that Local Authorities will no longer be able to limit the number of taxis they can have within their area. Another significant change is the suggestion of National standard conditions for private hire vehicles, drivers and operators.

1.3.5 These proposals, if they become part of the final report and enter into legislation, will have an impact on the approach to be undertaken with regard to Hackney Carriage and Private Hire policy.

1.3.6 The Law Commission have indicated that following the end of this consultation period on 10, September 2012 they will need to consider all the issues raised in the responses received and they will then publish a final report and draft Bill in November 2013. It will then be for Parliament to decide whether to change the law. If Parliament agrees to proceed with the proposals from the Law Commission(it must be remembered that the Government asked the Law Commission to undertake this study and therefore it is likely that they will wish to proceed), legislation will be put in place in 2014. It is not possible to determine whether that legislation will become effective in 2014 or at a later date.

1.3.7 As Members will be aware, the Licensing Team have been working on putting together a policy document for Hackney Carriage and Private Hire trades which would include the current adopted policies and also suggesting new areas to be adopted. which would bring this Authority in line with many other Authorities across the country that already have adopted such policies, but each of these will vary from area to area. Work on a policy document was advancing but the policy will now need to be reviewed in light of the Law Commission Consultation Paper. Any policy, if agreed following consultation, would only become effective in April 2013. Therefore, it is proposed that, whilst there could still be in excess of a one year gap between the Law Commission proposals becoming law, it would seem inappropriate at this stage for our policy to be in conflict with the Consultation Paper.

1.4 Alternative Action and why not Recommended

1.4.1 This is an information only report at this time.

1.5 Impact on Corporate Objectives

1.6 To fail to inform members and allow for a detailed response to the consultation would fail to achieve corporate and customer excellence.

1.7 Risk Management

1.7.1 It is important that the Council responds to this consultation paper to ensure that its views are taken into account in any changes to legislation.

1.8 Other Implications

1.8.1

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| 1. | Financial | X |
| 2. | Staffing | X |
| 3. | Legal | X |
| 4. | Equality Impact Needs Assessment | X |
| 5. | Environmental/Sustainable Development | |
| 6. | Community Safety | X |
| 7. | Human Rights Act | |
| 8. | Procurement | |

9. Asset Management



1.8.2 There may be financial, staffing, legal, equality and community safety implications that will be identified and could then be presented as part of the next report to the Committee.

1.9 Conclusions

1.9.1 A draft response to the Law Commission's consultation on Reforming the Law of Taxi and Private Hire Services is being prepared for the consideration of the Committee.

1.10 Relevant Documents

1.10.1 Appendices

1.10.2 None.

1.10.3 Background Documents

1.10.4 Law Commission Consultation Paper on Reforming the Law of Taxi and Private Hire Services.