



Taxi and Private Hire Regulation in the UK

A BRIEFING BY INLINE POLICY, FEBRUARY 2019

Introduction

The way taxis and private hire vehicles are regulated in the UK has been a subject of significant political debate over many years. The disruption brought about by Uber and other technology platforms that enable drivers and passengers to find each other has been an issue of intense lobbying between the industry, government and the local authorities which issue licences to drivers and operators.

After much debate, but very little government action, a report published in the autumn of 2018 known as the “Task and Finish Group Report” pointed the way to sweeping changes for the industry.

The Task and Finish Group was designed to bring stakeholders together to hammer out consensus positions. Arguably it failed to do so, leading to significant room for debate over the legitimacy of the report’s recommendations. Nevertheless, it became the starting point for discussions on taxi and PHV regulation.

With the Government now publishing its response to the Task and Finish Group

report it is clear that the report is enabling policy to move forward in the areas where there was consensus between stakeholders, which almost all relate to passenger safety. These will impose new duties and regulations on local authorities, PHV operators and drivers themselves.

On the more controversial recommendations that would be create significant new regulatory barriers for the taxi, PHV and ride-hailing sectors, the Government has indicated that it does intend to undertake significant changes, but it is going to take more time to consider how to do this. In particular, the Government is looking to integrate its taxi and PHV regulatory approach into the implementation of its wider Urban Mobility Strategy, which is due to be published shortly.

On the following pages we set out the background to the Task and Finish Group report, its recommendations, the Government’s response and the implications for the mobility industry.

What happens next?

The Government’s response to this report is not the end of the debate by any means. The biggest and most controversial issues in this area of regulation are still subject to further development and consultation by government.

It is critical for taxi, PHV, ride-hailing and ride-sharing companies to get involved in the policy making process to ensure that their views are heard and taken account of

as the new regulatory framework is drawn up.

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What is the Task and Finish Group?

The “Task and Finish Group on Taxi and Private Hire Vehicle Licensing” published its [report](#) in September 2018. The Group was an informal working group set up in the wake of a number of Parliamentary debates around the issue of taxi and private hire vehicle (PHV) licensing. According to the report’s preamble, then Transport Minister John Hayes MP had concluded that the existing system was no longer fit for purpose, and thus set up the Group to investigate the matter and recommend changes to the regulatory framework.

The Group was made up of a diverse range of stakeholders, including a representative of Transport for London, representatives of both taxi and private hire drivers, local authorities, and two Members of Parliament from different parties. The Group’s chair was Professor Mohamed Abdel-Haq, a professor of banking and finance with a background in wealth management. It was Professor Abdel-Haq who wrote the final report and the recommendations are his rather than the Group’s collectively.

THE REPORT

The report contains 34 written recommendations, each with explanatory notes, as well as a number of substantial minority reports from members of the Group setting out their reasons for disagreeing with the recommendations. The Government was never obliged to adopt any of the report’s recommendations, as the report does not have any formal standing.

Now the Government has published its response, the Group will not have any further formal role, but individual members may still be influential on the ongoing debate.

THE GOVERNMENT’S RESPONSE

On 12 February 2019 the Government published [its response](#) to the Task and Finish Group report. While many of the recommendations – especially those relating to safety – have been taken forward by the Government, many have either been accepted but left to local licensing authorities to implement, or they require primary legislation. Primary legislation will take some time to deliver and there are likely to be further public consultations before new laws are put before Parliament.

Alongside its response to the Group’s report, the Government has published a [consultation document](#) containing draft statutory guidelines which licensing authorities would need to follow when issuing licences. This is a way for the Government to set some form of common national approach without the need for immediate legislation. Nevertheless, the Government rejects the need for an urgent review of legislation governing taxis and private hire vehicles and the response as a whole lacks the sense of urgency that is explicit in the Group’s report.

THIS BRIEFING

On the next page you can see the full list of Task and Finish Group’s recommendations, the rest of this briefing paper divides the recommendations into three headings:

- A new regulatory structure
- Ensuring public safety
- Working conditions

In each section we set out the report’s recommendations, Government’s response and analyse the potential impact on the taxi and private hire sector.

FULL LIST OF RECOMMENDATIONS OF THE TASK & FINISH GROUP

1. Taxi and PHV legislation should be urgently revised.
2. Government should legislate for national minimum standards for taxi and PHV licensing, for drivers, vehicles and operators.
3. Government should urgently update current Best Practice Guidance for licensing authorities.
4. Licensing authorities in large urban areas should unite to create a single licensing regime, like the one which already exists in Greater London.
5. Government should introduce statutory definitions of “plying for hire” and “pre-booked” in order to maintain the current two-tier system.
6. Government should require companies that act as intermediaries between passengers and taxi drivers to meet the same licensing requirements and obligations as PHV operators.
7. Government and licensing authorities should subsidise socially beneficial investments made by operators, such as wheelchair accessible taxis or zero emissions capable vehicles.
8. Licensing authorities should be allowed by law to cap the number of taxis and PHVs where necessary.
9. Licensing authorities should use existing powers to oblige drivers to cooperate with compliance officers from other licensing authorities.
10. Legislation should be introduced to allow licensing authorities to enforce against taxis or PHVs in breach of national standards (see recommendation 2) or the requirement that all taxi and PHV journeys should start or end in the area which licensed the vehicle (see recommendation 11).
11. Government should make it a legal requirement for taxi and PHV journeys to either begin or end in the area where the driver is licensed.
12. Licensing authorities should make sure that they are adequately resourced, setting fees at an appropriate level to enable this.
13. Transport for London (TfL) should be allowed to regulate pedicabs (rickshaws) in London.
14. The Department for Transport (DfT) and TfL should work together to issue Fixed Penalty Notices for minor taxi and PHV infringements and the DfT should introduce legislation to provide all licensing authorities with the same powers.
15. Ridesharing services should gain the explicit consent of passengers at the time of a booking and commencement of a journey.
16. DfT should urgently start its consultation on a draft of its Statutory Guidance to local licensing authorities.
17. Licensed vehicles should all be fitted with visual and audio recording.
18. Government and local licensing authorities should consider ways to offset the costs of installing CCTV for small businesses.
19. National standards should allow the public to easily distinguish between taxis, PHVs, and unlicensed vehicles.
20. All drivers must be subject to enhanced criminal background checks.
21. Government should urgently issue guidance on which convictions should be grounds for refusal or revocation of driver licences.
22. Existing rules should be reviewed to ensure that as much relevant information on driver conduct as well as crimes can be disclosed.
23. All licensing authorities must use the National Anti-Fraud Network register of drivers who have been refused or had revoked taxi or PHV driver licenses. All cases must be logged in the database and authorities should check against it when considering applications from drivers.
24. Government must urgently establish a mandatory national database of all licensed drivers, vehicles and operators.
25. All drivers should be required to undertake a child sexual exploitation and awareness training course.
26. All individuals involved in licensing decisions must have appropriate training.
27. Government must review the assessment process for licensing drivers of passenger carrying vehicles (PCVs) and consider the appropriate boundary between taxis/PHVs and public service vehicles.
28. All drivers must be able to communicate in English orally and in writing to a suitable standard.
29. Licensed drivers should be required to undergo disability quality and awareness training.
30. Authorities with low numbers of wheelchair accessible vehicles should assess whether more such vehicles are necessary.
31. Licensing authorities should set up lists of wheelchair accessible vehicles if they have not already done so.
32. Licensing authorities should take firm action against disability access refusals.
33. Licensing authorities should take into account evidence of persons or businesses flouting employment law as part of their “fit and proper” operator tests.
34. Government should urgently review whether to introduce restrictions on the number of hours that taxi and PHV drivers can drive

Analysis of the recommendations

A NEW REGULATORY STRUCTURE

CROSS-BORDER HIRING

Probably the most significant recommendation from the point of view of the taxi and PHV industry is recommendation 11 of the Group’s report. This is designed to address the issue of ‘cross-border hiring’, which is when drivers carry out journeys in areas where they have not been licensed. This is currently perfectly legal in the UK, but the report suggests that all taxi and PHV journeys should have to either begin or end within the jurisdiction of the licensing authority where the driver is licensed.

The recommendation aims to ensure that consumers are protected from inconsistent standards based on where the driver was licensed, as opposed to where the journey is taking place. More significantly, the recommendation aims to prevent drivers in one area facing competition from drivers licensed in areas with less stringent requirements, as has been the case in some parts of the country since the advent of app-based booking platforms which operate nationally.

It is likely that this change could only be implemented if other recommendations, such as the merging of licensing authorities (see below), were also taken forward. Without this, drivers and passengers would face significant difficulty and confusion in large urban areas with multiple licensing authorities like Greater Manchester.

Even with some rationalisation of the number of licensing authorities, there will be questions over whether the introduction of this sort of regulation would reduce the availability of taxis and PHVs in certain areas.



The local authorities that make up Greater Manchester

For example, it is foreseeable that more drivers would seek to gain a licence in relatively affluent and well-populated areas rather than less affluent and less-densely populated area. This would have a negative impact on the ability of people in less affluent and less-densely populated area to use taxis and PHVs when they needed them.

The Government’s response states that it agrees “in principle” with the recommendation and that it will now consider how this might work best with a view to introducing legislation. In the meantime, the Government argues that the introduction of national minimum standards will address concerns about drivers ‘venue shopping’ for licensing authorities with lower standards.

This change, when introduced, will require significant changes to the systems behind app services for both taxis and PHVs. The Government has committed to considering the impact on all stakeholders and whether certain exemptions will be required.

NATIONAL STANDARDS

Recommendations 2, 3 and 5 are designed to create a more coherent and unified set of standards for taxi and PHV licensing. The report calls for the implementation of national minimum standards across the

country, with an emphasis on these being a base level that may be exceeded by local licensing authorities if they wish. If the national minimum standards are not introduced swiftly then the report recommends an update of the current [Best Practice Guidelines](#) for licensing authorities issued by the Department of Transport in 2010.

Recommendation 5 advises the Government to introduce statutory definitions of ‘plying for hire’ (which is the sole right of taxis) and ‘pre-booked’ in order to maintain the current two-tier system of taxis and private hire vehicles. This recommendation aims both to preserve this traditional distinction, and to ensure that only taxis, which face more stringent licensing requirements, continue to have the advantage of plying for hire.

The Government’s response accepts the need for national minimum standards and undertakes to introduce legislation to that effect. In the meantime, the Government has published a consultation document with draft statutory guidance which licensing authorities are required to consider when issuing licences. A number of the report’s recommendations are captured within the draft statutory guidelines with a view to them being enshrined in national minimum standards once new legislation has been put in place.

The Government rejected the need for a statutory definition of ‘plying for hire’ and ‘pre-booked’ based on the Law Commission’s 2014 report which stated that it could not find a reliable and enforceable definition of ‘plying for hire’.

REQUIRE INTERMEDIARIES TO MEET SAME REQUIREMENTS AS PHV OPERATORS

At present PHV Operators who take bookings for PHVs are required to have a licence from every local authority in which it is possible to use their service. Intermediaries who do not formerly take

bookings, but instead connect passengers and drivers do not require a licence. In practice this means that an app which acts as a booking office for PHV drivers, such as Uber, must hold a licence and meet specific obligations (such as having a local office) in every area in which they do business. Platforms which connect passengers with taxi drivers, who are able to ply for trade and do not need to be pre-booked, such as Gett and mytaxi, do not need to hold these licences or meet these obligations.

Recommendation 6 seeks to change this situation so that all intermediaries that connect passengers and drivers are required to meet the same conditions as licensed PHV Operators.

The Government rejected this recommendation as unnecessary and noted that the Law Commission has considered and rejected the idea in its 2014 report.

MERGING OF LICENSING AUTHORITIES

The agglomeration of small licensing authorities in large urban areas has the potential to be a controversial issue especially amongst local government. The recommendation was supported by many of the stakeholder groups represented in the Task and Finish Group, with the Transport for London licensing system demonstrating how similar amalgamated systems could work in large cities like Birmingham, Manchester, Liverpool, Leeds and Newcastle. In large cities it is likely that most drivers and operators will be operating across local authority boundaries on a regular basis. However, as seen in the minority report from the representatives of the Local Government Association, some local authorities will be unwilling to give up their current level of control over licensing given its importance as a local issue amongst the public and the revenue it generates for local authorities. Nevertheless, the Local Government Association noted that the recommendation called for any amalgamation of local licensing authorities

to be undertaken on a voluntary basis and not imposed by central government.

This recommendation did not just focus on cities, arguing for a greater alignment of standards in more disparate rural zones as well. This is likely to be similarly controversial amongst local government stakeholders.

The Government’s response supported the idea of collaboration between licensing authorities and said it would keep the matter under review, but it did not make any commitment to action. However, as noted above, in its response to the recommendations on cross-border hiring, the Government said that it will consider the appropriate boundaries of the areas covered by proposals for cross-border hiring rules, suggesting that they would be wider than existing licensing authority areas.

REMOVING THE ANOMALY IN RELATION TO PASSENGER CARRYING VEHICLE LICENCES

An additional recommendation, recommendation 27, calls on the Government to consider the boundary between taxis and PHVs on one hand and public service vehicles (vehicles which carry more than nine passengers) on the other. The report notes that there have been cases of drivers who have been refused licences to drive taxis or PHVs by a local authority, being able to obtain a Passenger Carrying Vehicle (PCV) licence from the Driver and Vehicle Licensing Agency, which has allowed them to drive public service vehicles. The report calls for the PCV licensing system to be reviewed to avoid this situation occurring.

The Government has said it will not take forward this recommendation, but does state that, “in the longer term”, the issue should be considered by the broader review of regulation across mobility that is part of the Future of Mobility Grand Challenge.

EXPLICIT CONSENT FOR RIDE-SHARING

The report includes a recommendation stating that ride-sharing services should ensure they have explicitly gained consent from passengers to share a ride at the time of booking.

The Government’s response highlights that there is no evidence that this is an issue of concern and states that licensing authorities can choose to create a licence condition for operators along these lines.

ENSURING PUBLIC SAFETY

The vast majority of the recommendations in the report are aimed at improving public safety. Sometimes there is a secondary motive in mind, such as guaranteeing fair competition, but it is clear that safety is the main motivating force behind the report’s suggestions.

The wide range of recommendations aimed at improving safety can be further divided under three sub-headings:

- Passenger safety
- Improving enforcement
- Disability awareness

PASSENGER SAFETY

This is by far the largest group of recommendations with a unity of purpose, running from 17 through to 26. The recommendations include the installation of video and audio recording facilities in all vehicles, subjecting drivers to enhanced criminal background checks and creating a national database of PHV and taxi drivers.

Recommendation 23 calls for a national database of drivers who have had their licence revoked and applicants who have been rejected. This has long been a demand of safety campaigners and is the subject of a Private Member’s Bill tabled by Labour MP

Daniel Zeichner that is currently going through Parliament.

The Government's response confirms that they want to see licensing authorities required to consult a national database of refusals and revocations and will support the passage of the Private Members Bill through Parliament. If the Zeichner Bill fails to get through Parliament, then the Government will introduce a similar bill as government legislation.

Alongside the database of revocations and refusals, the report called for a database of all licenced taxi and PHV drivers.

The Government accepts this recommendation and commits to introduce legislation to create the database alongside the legislation for national minimum standards.

While the report's recommendation to create a database of drivers received some attention in the media, the introduction of mandatory video and audio recording did not attract significant comment. The UK public is generally quite relaxed and reassured by video surveillance in public places and private buildings, whether this will extend to the back of taxis and PHVs will be an interesting question.

The Government's response accepts the arguments for CCTV and their media messaging pushed this is a significant safety measure. However, rather than incorporate this into national minimum standards the Government has included proposals for CCTV in the draft statutory guidelines for licensing authorities. This means that it will still be down to each local authority to choose whether or not to impose the requirement as a licence condition on drivers in their jurisdiction.

Interestingly, rather come out in support full of audio recording, the Government has suggested that audio recording should be triggerable by either the passenger or driver if they have a concern and should be obvious

to both parties when it is recording. The Government outlines the significant compliance burden placed on local authorities and drivers as a result of this recommendation but does not comment on the proportionality of the measure in this regard. In a different section of the response the Government makes clear that it will not provide any subsidy for CCTV and audio recording equipment.

IMPROVING ENFORCEMENT

Recommendations 9 and 10 aim to solve a problem whereby local authority enforcement officers cannot take enforcement action against drivers operating in their area if the driver is licensed by another authority. At present, the enforcement officers would need to file a report with the other licensing authority and would not be able to pursue the issue themselves. These recommendations tie-in to the set of recommendations on regulatory structures set out above, as they rely on the existence of national minimum standards which enforcement officers from any authority would be able to enforce against any licensed driver.

The Government note that it is already within the power of licensing authorities to create a licence condition that requires drivers to cooperate with other licensing authorities. The Government commits to making national standards enforceable by all local authorities regardless of where a driver is licensed as part of the legislation that introduces national minimum standards.

ENGLISH LANGUAGE TESTS

Recommendation 28 of the report stated that licensing authorities should ensure that drivers can communicate in English orally and in writing "to a standard that is required to fulfil their duties".

The Government's response agreed with this recommendation and it has been included in the draft statutory guidance on which the Government is consulting. The Government

will also include this in national minimum standards.

DISABILITY AWARENESS AND TRAINING

A group of recommendations also seek to make taxis and private hire vehicles more disability-friendly. These recommendations include:

- Tougher penalties for drivers refusing to serve disabled people
- Suggestions for licensing authorities to improve the number of wheelchair accessible vehicles in their fleet where there is a proven need for more capacity
- Introducing mandatory disability awareness training for all drivers

While these recommendations were generally seen as positive by members of the Group, there were concerns expressed over who would pay for the training and any upgrading of taxi and PHV fleets if this was required. Recommendation 7 suggests that this cost should be met by the public sector – either by central government or licensing authorities, unsurprisingly this was not supported by representatives of the Local Government Association or Transport for London. Recommendation 7 made the same suggestion in relation to funding the introduction of more zero emission capable vehicles into the taxi and PHV fleet. While there are already some national and local funding schemes available to support pilot projects, these are generally focused on supporting charging infrastructure rather than purchasing the vehicles themselves.

The Government’s response makes clear that it will not be providing additional funding as suggested by the report but supports licensing authorities making disability and equalities training mandatory for drivers and states that this will be included in national minimum standards.

The Government responds in a similar manner to the recommendation for mandatory training for drivers to identify signs of exploitation and abuse of children and vulnerable adults.

WORKING CONDITIONS

The working conditions of drivers has been a highly controversial issue since the entry into the market of platform operators who allow passengers to book taxis and PHVs in return for a share of the fare. The concerns include the terms and conditions of bookings, capped rates for certain journeys and the employment status of drivers of both taxis and PHVs who use the platforms to generate income.

LOCAL CAPS ON THE NUMBERS OF TAXI AND PHV LICENCES

As far as the industry is concerned, a highly controversial recommendations in the report is recommendation 8, which states that the Government should allow licensing authorities to impose caps on the number of taxi and PHV licences they grant. This is designed to address issues of over-supply which are seen as a cause of lower earnings for drivers.

While this recommendation states that a cap should only be imposed if the licensing authority can prove that there is a need to do so, there are many reasons why a local authority may feel a cap is justified.

The Mayor of London, Sadiq Kahn, is one of the many stakeholders in this debate to have called for licensing authorities to have this power. Of course, it is important to note that any sort of cap would only be effective if new rules on cross-border hiring are introduced.

The Government’s response notes that local authorities can limit the number of taxis, but not PHVs. However, the Government rejects calls for a cap and indicates that congestion charging and clean air charging schemes, such as the Ultra-Low Emissions Zone in London, should be used as a way to limit the number of vehicles in cities. This position will be controversial amongst local authorities who may wish to reduce the number of PHVs

circulating in their city centres without charging other drivers.

COMPLIANCE WITH EMPLOYMENT LAW

While the report did not seek to explore all of the employment issues around the gig economy, recommendations 33 and 34 did explicitly address working conditions. Recommendation 33 recommends that licensing authorities take into account any evidence of companies flouting employment law and the integrity of the National Living Wage when assessing whether those companies are ‘fit and proper’ to hold a PHV operator licence.

This is clearly aimed at platform operators, such as Uber, who hold these licences but who argue that as their drivers are neither employees nor “workers” under employment law, the company does not have an obligation to ensure they earn the minimum wage. The same arguments would be made by companies like Gett and mytaxi who provide similar booking platforms for licensed taxis.

The Government’s response agrees that such matters, when they have been officially found by relevant tribunals, should be a consideration in a ‘fit and proper’ assessment.

Minority reports

The Task and Finish Group report contained an annex detailing dissenting opinions from a number of the Group’s members. While there were some commonalities between the dissenting views, each had their own particular set of objections and priorities. Set out below are the key dissenting views on the most controversial aspects of the report.

LIMITS ON HOURS

Perhaps a more relevant recommendation is recommendation 34, which suggests the introduction of maximum driving hours in line with laws already in place for heavy goods vehicle drivers. This is something that some platforms, such as Uber, have already done; enforcing a six-hour break on drivers who have had 10 hours of working through the app. However, at the moment there is nothing to prevent drivers from switching between one app and another, or indeed working without an app, in order to work longer than any particular time limit.

There is no clear proposal for how this rule would be introduced in practice given the expense of fitting tachographs and enforcing their use in a similar manner to those used to limit lorry and bus drivers’ hours. There are also issues of whether applying existing EU rules to taxi and PHV drivers would be appropriate and practical given their different working conditions to other regulated drivers. These problems are acknowledged within the report whilst still making a recommendation that the Government should identify a way forward.

The Government’s response notes that the Task and Finish Group did not have any evidence to support concerns over driving hours, but commits to assessing the scale of the issue through informal engagement with the industry’s stakeholders.

While the Task and Finish Group has now disbanded, these dissenting voices will be important in shaping the debate that will take place in response to government consultations and subsequent legislation.

CROSS-BORDER HIRING

A number of panellists dissented from the report’s recommendation that taxi and private hire journeys should have to either

start or finish in their respective licensing area. Both the Competition and Markets Authority (CMA) and Conservative MP Anne Main objected to this recommendation on the basis that it would be anti-competitive.

Two industry trade associations also objected. The National Taxi and Private Hire Vehicle Association and the Licensed Private Hire Car Association both cited concerns around competition and industry efficiency. In particular the National Taxi and Private Hire Vehicle Association argued that a lot of small private hire businesses rely almost totally on airport transfers, and that this recommendation would lead drivers to be driving back to their licensing authority from airports without passengers in order to collect more passengers. This is clearly inefficient and creates more environmental harm for each passenger journey.

The Suzy Lamplugh Trust, a charity that deals with personal safety issues, argued that national minimum standards would preclude the need to outlaw cross-border hiring.

CAPPING THE NUMBER OF LICENCES

There were also several objections to licence capping, mainly from the same groups. The CMA and Anne Main MP once again cited concerns around the impact of this

recommendation on competition. Ms Main added that she believes that the imposition of national minimum standards will bring an end to the dramatic increase in the number of licences being issued, thereby removing the need for caps.

The National Taxi and Private Hire Vehicle Association argued that capping would amount to “closing the stable door after the horse has bolted,” and expressed concerns that capping could impose artificial restrictions in areas where supply does not currently meet demand. The Licensed Private Hire Car Association echoed these concerns.

MANDATORY VIDEO AND AUDIO RECORDING

Anne Main MP expressed her view that the case has not yet been made for mandatory video and audio recording. She argued that there are numerous concerns around this issue, not least concerns about data privacy and security. She, alongside the Licensed Private Hire Car Association, went on to say that she fully supports the right of companies to voluntarily introduce such measures, but that to legally require it would be going too far.

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David leads Inline's mobility practice. He is a public affairs and strategic communications specialist and a self-confessed technology and regulatory geek. He has worked at the intersection of technology, politics and regulation throughout his career. He has advised leading brands such as HP and Orange on their UK and EU political and regulatory strategies and has a track record of achieving policy changes that deliver real benefit to the bottom line for businesses.

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Matthew joined Inline as he believes that emerging technologies will transform society at the most fundamental level. He has developed an extensive knowledge of urban mobility policy and writes weekly commercial and regulatory newsletter covering on-demand transport and autonomous vehicles.

Matthew also has particular experience of working with companies in the sharing economy in transport and other sectors.

Prior to joining Inline, Matthew studied History at the University of Cambridge, before going on to a Masters' in Security Studies at UCL.

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