

Taxi and private hire vehicle licensing in Wales

Consultation response form

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Organisation (if applicable): Shared Regulatory Service, responding on behalf of the following Local Authorities:-

Bridgend County Borough Council

City of Cardiff Council

Vale of Glamorgan Council

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Your address: Vale of Glamorgan Council, Civic Offices, Barry

Responses should be returned by 08/09/17 to:

Public Transport Policy Team
Transport – Policy, Planning and Partnerships
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: PolisiTrafnidiaethGyhoeddus.PublicTransportPolicy@wales.gsi.gov.uk

Q1: Should the 2 tier system be retained in Wales or should a single tier model be developed for the taxi and private hire vehicle sector in Wales?

It is the view of the Shared Regulatory Service (SRS) of Bridgend, Cardiff and the Vale of Glamorgan that a new piece of primary legislation to replace the existing archaic legislative structure provides an ideal opportunity to implement a system that reflects an evolving transport regime.

The public are often unaware of the distinction between hackney carriage and private hire vehicles and it rarely makes a difference to them whether they make a booking via a telephone, smartphone app or hail a vehicle from the roadside.

In principle, a one tier system would be the preferred model. However, it is acknowledged that a number of challenges would have to be overcome for this model to be successfully implemented.

An issue created by a one tier system is that of rank space, particularly within town centres. If a one tier system were adopted, this would put further pressure on rank space. However, in light of the evolving nature of the trade and the general move towards electronic booking systems, one solution would be the provision of additional 'holding areas' on the fringes of town centres for vehicles to wait until they are booked electronically. These areas could be tailored specifically for taxis, including charging points for the eventual move to electric vehicles and could be the catalyst for taxis to embrace electric vehicles. This would also help alleviate pollution in town centres as fewer vehicles would have their engine's idling within the centre.

In major urban areas where there is a high concentration of entertainment venues or large scale events taking place, the demand for taxis by the public to take them home may require centralised ranks in order to operate efficiently and safely. In this respect SRS believe there would need to be local solutions implemented depending on the circumstances.

Some Local Authorities have limits in place on the number of hackney carriage licences that can be issued, as a result HC plates carry an intrinsic value that can run into thousands of pounds. In order to recognise this, any legislative changes would need to take into account the significant investments made by individuals and operators.

The following benefits are envisaged from a one tier system, it would:

- Create a level playing field for the trade;
- Simplify insurance policies as only public hire would be required;
- De-criminalise the act of private hire vehicles plying for hire (known as flimping);
- Be much easier for the public to understand;
- Do away with inconsistent fares between private hire (agreed at the point of hire) and hackney carriages (maximum fare set by the Local Authority);
- Allow for a fare to be agreed for pre-booked journeys and set by the council if hailed in the street or hired at a taxi rank, regardless of whether the journey ends outside the LA area. (taxi driver will have the right to refuse a fare for distances beyond the LA area anyway);
- Ensure consistent minimum standards for drivers and vehicles;
- Do away with the terms hackney carriage and private hire and introduces the term "taxi", (which the public already recognise).

Q2: Should the arrangements in Wales require taxi drivers to maintain accurate records of:

- a. all journeys undertaken in taxis
- b. only journeys that have been pre-booked or started out of the taxis licensing area
- c. not to require taxi drivers to maintain records

Ideally records should be kept for every journey undertaken; however, there are obvious practical difficulties with this approach. Attempting to obtain a passenger's name and address at the end of an evening would not only would be difficult (refusals, false names etc.), but could put the driver in a confrontational situation.

The purpose of record keeping is primarily for safeguarding reasons. The retention of records would provide evidence of where a vehicle has been and who has been conveyed, which assists with enforcement, but these records could easily be manipulated and as such could not be relied upon.

It is our view that technology should instead be used to improve safeguarding; the use of CCTV, trackers and GPS systems would provide a more robust system of record keeping without placing administrative burden on taxi drivers. If technology cannot be used, the only practicable solution would be to require records to be kept for pre-booked journeys only. However, this needs to be balanced against the potential financial burden on smaller operators.

Q3: Should the arrangements for licensing taxis in Wales require all persons handling personal information to be licensed or not?

Any person taking or holding an individual's personal information should have to be vetted to ensure that they are safe and suitable ("fit and proper"). The most appropriate way to do this would be to introduce a licensing system, which is consistent with the Welsh Government's proposals for licensing the dispatcher and operator.

Q4: Should a person taking a booking for a private hire vehicle be licenced?

Any person taking or holding an individual's personal information should be vetted to ensure that they are safe and suitable ("fit and proper"). The most appropriate way to do this would be to introduce a licensing system, which is consistent with the Welsh Governments proposals for licensing the dispatcher.

Q5: Should the “fit and proper persons” test for the application and issue of licences be retained in Wales?

The fit and proper test should be retained for drivers and operators and should be extended to include proprietors and dispatchers.

Q6: Do you agree that local authorities should have the discretion, within certain constraints, to impose conditions on individual licence holders to meet additional local requirements and standards where there is a reason to do so?

Due to the considerable difference between the licensed trade in Wales, particularly between rural and urban locations, Local Authorities should be able to impose additional conditions to help deal with an issue that may be unique to their area. For example a Local Authority, as a result of a complaint/conviction, may wish to attach a condition to a licence for the licensee to attend a specific local course.

Q7: In relation to setting fees for the licensing of taxis and private hire vehicles, do you agree that:

- a. The fees for the licensing of private hire vehicles should be set by the Welsh Ministers with fees for taxis being set by local licensing authorities at a rate not less than those applied to private hire vehicles – as recommended by the Law Commission; or
- b. Local licensing authorities be required to set all fees in their areas, exercising their functions having due regard to guidance issued by the Welsh Ministers?

Having fees for hackney carriage and private hire vehicles set independently by two separate bodies would bring no additional benefits and would not be conducive with a one tier model.

Local Authorities should be able to set fees locally, levied so that they reflect the actual cost of providing the service. The current fee setting regime set under the existing legislation is explicit as to what elements of cost recovery are permitted and not all costs are recoverable. For example, Local Authorities cannot recover the costs for the use of night-time taxi marshals in urban areas, or for the enforcement of conditions for licensed drivers.

Fee setting powers provided in any new legislation should allow the Local Authority to recover all costs associated with the administration and enforcement of the regime, rather than it being subsidised by council tax payers.

The Local Authorities served by the SRS have historical experience of legislative challenge and judicial review associated with fee recovery and would welcome further detailed discussions with WG on the proposed fee setting process where that knowledge could contribute to the legislative proposals.

Q8: Do you agree that:

- a. Local licensing authorities should be required to publish driver, vehicle and operator licensing data information as prescribed by the Welsh Ministers as recommended by the Law Commission, or
- b. Local licensing authorities should be required to share information about any enforcement action that has taken place and resulted in the removal or suspension of a licence, and that licensing authorities required to consult that information prior to any application for a licence being granted.

It would be of no benefit to publish information about licence holders. However, a national database maintained and accessed by Licensing Authorities would be an excellent tool to prevent unsuitable drivers from obtaining or retaining licences. The SRS firmly believe that such information should be shared between Licensing Authorities and any provisions put in place to facilitate this would be beneficial.

Q9: If required, should the Welsh Ministers have the power to make a scheme that:

- a. Allows taxi licences to be traded between licence and perspective licence holders;
or
- b. Requires licences to be returned to the local licensing authority for reissue but allow for a compensation scheme to be established ensuring that licence holders that have traded plates previously in relation to Wales to be compensated for any potential loss.

Local Authorities already have procedures in place to allow taxi licences to be transferred from one proprietor to another, in much the same way as alcohol and entertainment licences under the Licensing Act 2003 are transferred between licence holders. However, the existing process set out in the Local Government (Miscellaneous Provisions) Act 1976 requires tightening up, with an application process being prescribed which includes the ability for the Local Authority to charge a fee.

Q10: Do you consider that equality requirements proposed by the Law Commission can be met under the requirements imposed by the existing public sector equality duty (s149 of the Equality Act 2010) and the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011?

The SRS believe that including the proposals in primary legislation would strengthen existing provisions and would provide a consistent approach to equality issues throughout Wales.

A number of Local Authorities have introduced policies that require all new hackney carriages to be wheelchair accessible. A lack of available wheelchair accessible vehicles is a common complaint received by the public, particularly in areas that have not introduced such policies. Therefore, any new legislation must take this issue into account to ensure accessibility is improved.

Q11: Do you agree that applicants or existing licence holders must first allow a review of a refusal, suspension or revocation by a person not involved with the initial decision to be undertaken within a reasonable timeframe before an appeal to magistrates' courts can be made?

Central Government
Public Transport User Groups
Local Authority (Wales)
Environmental Groups
Local Authority (England)
Disability Groups
Taxi PHV sector
Community Groups
Commissioners / Ombudsman
Freight Operators / Users
Advisory Groups
Bus Industry / Operators
Media

Air Industry / Operators
Emergency Services
Sea Industry / Operators
Health Sector
Trade Unions
Other (Please state)

It would be of no benefit having a Councillor or Officer reviewing a decision that was previously determined by a Committee consisting of between 3 and 15 Councillors. In our view this review would not be independent and would be perceived as a decision taken by the Local Authority regardless of who made the decision.

The appeal process should either be retained as it currently stands or another independent body should hear the appeal.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: