

REPORT ON AN EXISTING TAXI LICENSING LOOPHOLE RELATING TO POTENTIAL UNFIT DRIVERS CONTINUING TO OPERATE

1 Purpose

- 1.1 For Licensing Committee to introduce a condition to existing and new Private Hire Operator licences to close a taxi licensing loophole that potentially allows unfit drivers continuing to operate.

2 Recommendations/for decision

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| 2.1 | That the condition set out in paragraph 3.5 is introduced as a standard condition attached to Private Hire Operator licences. |
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3 Supporting information

- 3.1 A Private Hire Vehicle is defined as a vehicle constructed or adapted to seat, other than a hackney carriage or 'public service vehicle', which is provided for hire with the services of a driver for the purpose of carrying passengers. A public service vehicle licence is required to operate a vehicle for hire or reward that can carry 9 or more passengers and is licensed via the Driver and Vehicle Standards Agency. Members will appreciate that hackney carriages and private hire vehicles, operators and drivers are licensed by local authorities.
- 3.2 The licensing regimes are different, presumably reflecting the relative potential risk that each poses to the public. Namely that public service vehicles are expected to carry a number of people, whereas private hire vehicles and hackney carriages routinely carry lone individuals.
- 3.3 Many private hire operators also operate public service vehicles legitimately and in accordance with the spirit of the various controls. However there is anecdotal evidence that drivers refused a taxi or private hire vehicle licence or whose licence has been revoked can obtain a Public Carriage Vehicle licence and continue to operate in the same area.
- 3.4 Attached as Appendix 1 is an extract taken from a letter written by Andrew Jones MP, to the Chair of the Local Government Association's Safer Stronger Communities Board, Councillor Simon Blackburn on the 28 February 2017. The letter was in response to concerns raised around this existing taxi licensing loophole. The letter proposes that licensing authorities impose an additional condition to private hire operators licences as set out in the following paragraph.
- 3.5 **Except in circumstances described below, bookings received by the licence holder must be fulfilled by using a private hire vehicle licensed driver and a licensed private hire vehicle.**

Where private hire vehicle operators also hold a public service vehicle operator's licence, public service vehicles should not be used to fulfil bookings except with the informed consent of the hirer. For example, if a member of the public contacts a private hire vehicle operator and seeks a booking for a party of fewer than nine passengers it cannot be

reasonable to assume that the public service vehicle is required unless there are other factors e.g. a large amount of baggage, or a need for a wheelchair accessible vehicle which would not otherwise be available. If there is good reason to use a public service vehicle for a booking for fewer than nine passengers, the difference in licensing requirements should be explained and explicit consent obtained.

- 3.5 The extract from the letter written by Andrew Jones, MP was circulated to all licensed operators in March 2017 and any comments invited. Only one response was received and this did not address the introduction of the proposed condition.

4 Options considered

- 4.1 None

5 Reasons for Recommendation

- 5.1 To close a current loophole relating to potentially unfit drivers continuing to operate.

6 Resource implications

- 6.1 None

Contact Officer	Peter Seal 01296 585083
Background Documents	None

Consultation – Private Hire Bookings in PSV vehicles

In recent months national press have brought to the attention of Government the loophole in law which means that anyone can drive PSV vehicles without having to go through the stringent checks that Private Hire and Hackney Carriage Drivers are subject to. This means that someone that is refused or revoked from having a Private Hire or Hackney Carriage Driver Licence can drive a PSV vehicle potentially carrying vulnerable passengers without the safeguarding checks being carried out. This could potentially leave passengers at risk.

Below is an extract of a letter written by Andrew Jones MP who mentions licensing authorities could impose a condition on Private Hire Operators which may assist with safeguarding.

Aylesbury Vale District Council would like to add this to the Conditions of Licence for Private Hire Operators. Please read the information below. The new condition is in **bold** type. All consultation responses must be received in writing by 21 April 2017.

“The extract below is taken from a letter written by Andrew Jones MP, to the Chair of the LGAs Safer Stronger Communities Board, Cllr Simon Blackburn, on 28 February 2017. The letter was in response to concerns raised around an existing taxi licensing loophole which means that drivers refused a taxi or PHV licence, or whose licence has been revoked, can obtain a Public Carriage Vehicle (PCV) licence and continuing to operate in the same area.

The Government attaches the utmost priority to passenger safety in the licensed taxi and private hire vehicle trade. However, the licensing regime for any transport mode must be proportionate. The resulting difference on the ‘fit and proper’ test for taxi and PHV drivers and their commercial counterparts driving a bus or minibus is a reflection of the relative potential risk they might pose to the travelling public.

The distinction is appropriate in the vast majority of cases but – as you pointed out – is open to abuse where a public service vehicle (PSV) driven by a passenger carrying vehicle (PCV) license-holder is used to fulfil a PHV booking. I agree that it cannot be right in principle that the PHV licensing regime may be evaded through the use of PHV bookings of drivers and vehicles which are not licensed for PHV purposes. However, the Department’s view is that licensing authorities already has the power to close this loophole, quickly and effectively.

*It is open to all licensing authorities to impose as a condition of a PHV operator’s licence that, **except in circumstances described below, bookings received by that licence-holder must be fulfilled by using a PHV licensed driver and a PHV licensed vehicle. Authorities may then take appropriate steps to monitor and enforce compliance with the licence condition.***

Where PHV operators also hold a PSV operator’s licence, PSVs should not be used to fulfil bookings except with the informed consent of the hirer. For example, if a member of the public contacts a PHV operator and seeks a booking for a party of fewer than nine passengers it cannot be reasonable to assume that the PSV is required unless there are other factors e.g. a large amount of baggage, or a need for a wheelchair accessible vehicle which would not otherwise be available. If there is a good reason to use a PSV for a booking for fewer than nine passengers, the difference in licensing requirements should be explained and explicit consent obtained.

The department is currently considering whether to include these issues as a requirement in the statutory (under section 177 of the Policing and Crime Act 2017) and best practice guidance on taxi and PHV licensing on which we intend to consult later this year.”