

Local Government Association (LGA) Briefing Debate on the future of Taxi and Private Hire Vehicles (PHV), House of Commons Tuesday 18 July 2017



Key messages

- Current legislation for the licensing of taxi and private hire vehicles (PHVs) is inadequate and outdated. The licensing framework has not kept pace with developments in technology and the need to ensure passengers are protected.
- 'Out of area' drivers operating within other licensing authority areas (cross-border activity) has significantly increased in recent years, a result of both of the Deregulation Act 2015 and the proliferation of app based systems.
- There needs to be national minimum standards introduced for taxis and PHVs to align licensing and safety standards across the country, while retaining local flexibility for councils.
- As recommended by the Law Commission, the LGA is calling for a Taxi and Private Hire Vehicle Licensing Reform Bill to replace outdated legislation and modernise the licensing system for taxis and PHVs, to the benefit of both passengers and the trade itself.
- Councils must be able to take enforcement action against any driver operating in their area. A Taxi and PHV Licensing Reform Bill must also look at measures to ensure drivers are working in the area where they are licensed.

Taxi and Private Hire Vehicle (PHV) legislation

The LGA has consistently highlighted the need for urgent reform to outdated legislation governing taxis and PHVs. Piecemeal changes to legislation and new technology have brought into focus the inability of the existing licensing system to deal with the way taxis and PHVs operate in the 21st century. This has made it more difficult for councils to meet new challenges and fulfil their duties around public protection.

Taxi and Private Hire Vehicle legislation is primarily concentrated in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. Within London, taxis and PHVs are licenced under the Metropolitan Public Carriage Act 1869 and London Cab Order 1934. This legislation provides a broad framework for the licensing of drivers, vehicles and operators but the detail of how this is done, including standards and conditions, is the responsibility of individual district and unitary councils. There are a number of other Acts which also have an impact.

This legislation is widely regarded as outdated and has not adequately kept pace with developments in technology and the need to ensure passengers are protected.

In 2011 the Department for Transport (DfT) invited the Law Commission to undertake a review of taxi and PHV licensing. The Commission's 2014 report included a draft Bill with a comprehensive set of proposals to completely update and replace taxi and PHV legislation.¹

The Government has not formally responded to the Law Commission's report, but used the Deregulation Act 2015 to introduce a small number of their proposals independently of the wider reforms. The main impact of this was to increase the flexibility for PHV drivers to operate outside the specific licensing authority area in which they are licensed, but without giving licensing authorities the powers the Law Commission envisaged to take enforcement action against out of area drivers.

These changes have been ineffective in supporting councils to deal with the changing way taxis and PHVs are operating and providing more stringent public protection measures to be built into the licensing framework. Since the Commission's report was published, the Jay and Casey reviews into Rotherham have highlighted the links between child sexual exploitation (CSE) and taxi and PHV licensing.¹ Alongside this, the increasing popularity of apps such as Uber, and concerns about how they fit in the current framework, have also emphasised the problems of operating under outdated legislation. This is why the LGA is calling upon the Government to bring forward a Taxi and PHV Licensing Reform Bill without further delay.

National minimum standards

One major concern around taxis and PHVs is the fact that different authorities apply different standards for securing a taxi or PHV vehicle or drivers licence, yet taxis and PHVs can effectively operate anywhere.

Whilst the DfT publishes best practice guidance, there are very few mandatory requirements apart from that drivers and operators are 'fit and proper'. This has led to a variety of different standards being applied, with some authorities applying more stringent requirements following cases of CSE. However, these approaches are being undermined by drivers coming in to the area who have been licenced in other areas where the licensing requirements may not be as strict.

This is causing huge frustration to councils and local drivers who have applied, or had to comply with, more rigorous standards. Out of area vehicles operating within other licensing authority areas (cross-border activity) has seen a significant increase in recent years, a result both of the Deregulation Act 2015 and the proliferation of app based systems.

A national minimum standard for vehicles and drivers should be introduced. It should be set at a suitably high level, which would remove some of the challenges and inconsistencies across the country. Provisions must be made for local flexibility within this, with councils retaining the power to supplement national standards with their own conditions.

Whilst the DfT's statutory and best practice guidance, due for consultation in 2017, may go some way to raising standards, this does not negate the need for wider reform.

¹ <https://www.gov.uk/government/publications/report-of-inspection-of-rotherham-metropolitan-borough-council>

New enforcement powers

Licensing authorities can only take enforcement action against drivers and vehicles that they have themselves licensed, rather than out of area drivers. This leaves local licensing authorities unable to take action against large numbers of 'out of town' drivers and vehicles operating in their areas.

It is vital that licensing authorities have the powers to take enforcement action against any vehicle or driver operating in their area. However, a Reform Bill must also look at measures to ensure drivers are operating in the area in which they are licensed.

National register of revocations and refusals

The LGA has taken steps to address one of the main concerns of licensing authorities, which is the problem of individuals making applications in different areas following a refusal or revocation of their licence elsewhere. If drivers do not disclose information about previous revocations or refusals of their licence, there is often no way for a council to find this information out. This means that vital intelligence about an applicant's past behaviour is being missed and an individual might receive a new licence in another area.

In response, the LGA has recently commissioned the development of a national database of taxi and PHV licence refusals and revocations in which councils can record details of individuals who have been refused or revoked. Other authorities will be able to check new applicants against the database.

Although a register of refusals and revocations cannot on its own solve the many challenges facing councils in regulating taxis and PHVs, it will be an important step to tackling the specific issue of individuals making applications to different licensing authorities following a refusal or revocation. As part of a Reform Bill, we believe that Government should introduce a national database of all licensed taxi and PHV drivers.

ⁱ Law Commission 2014 Report on Taxis and PHVs <http://www.lawcom.gov.uk/project/taxi-and-private-hire-services/>