
Report of Head of Elections, Licensing and Registration

Report to Licensing Committee

Date: 8 September 2015

Subject: Information report – De-Regulation Act 2015 and its effect on Taxi & Private Hire Licensing matters.

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. Extensive proposals for reforming the Taxi & Private Hire legislation were submitted by the Law Commission to the House of Commons in 2014 but these have not passed through Parliament. Three of the proposals in that bill were extracted and put forward into the De-Regulation Act 2015 and come into force in October this year.
2. Two of the changes directly affect licensing administration issues but the most contentious change is the sub-contracting of Private Hire bookings between Operators nationally, currently that can only occur between Operators in the same licensing district. This report highlights some of the potential consequences and the proposals to help reduce a public safety threat which are being considered.

Recommendations

3. That Members note the report.

1 Purpose of this report

- 1.1 Following the Licensing Committee meeting on 10 June 2014, this report aims to further explain to Members the background to the changes being enacted and how they will affect this Authority, particularly issues of general public safety, safeguarding threats and enforcement capability.

2 Background information

- 2.1 The Licensing Committee has previously been significantly involved in discussing the earlier recommendations of the Law Commission and Taxi & Private Hire licensing reform proposals. Objections were put forward to some of the changes where it was felt the professional standards of licensed drivers working in Leeds would be diluted or present increased dangers to Leeds residents from licensed drivers (not licensed by this Authority) or the unlicensed drivers of licensed vehicles.
- 2.2 The proposals of the Law Commission did not pass through the House of Commons and it is uncertain whether the next steps will be with the original proposals. At the same time as that Bill was part progressing to Parliament, the Government was consulting on De-Regulation proposals and the intention of that Act was:-

‘A bill to make provision for the reduction of burdens resulting from legislation for businesses or other organisations or for individuals; make provision for the repeal of legislation which no longer has practical use; make provision about the exercise of regulatory functions; and for connected purposes.’

In summary, four of the Law Commission proposals were originally drafted into the De-Regulation Bill but the clause enabling any person to use a licensed vehicle for social, domestic or pleasure purposes was withdrawn by the DfT.

However, the Act will:-

- Remove the absolute discretion of a local Authority not to issue a driver licence for a period of more than one year.
 - Allow for Private Hire Operator licences to be granted for a period of 5 years only without discretion for the Council to grant for a lower period.
 - Remove the strict control of sub-contracting a Private Hire journey from within a licensing district only to enable sub-contracting to take place on a national basis.
- 2.3 On 26 March 2015, the Deregulation Act 2015 received royal assent. This was followed by The Deregulation Act 2015 (Commencement No. 1 and Transitional and Saving Provisions) Order 2015 which set out the commencement date for taxi and private hire deregulation measures. These provisions are coming into force on 1 October 2015.

- 2.4 Section 10 of the Act (Taxis and private hire vehicles: duration of licences) amends two sections of the Local Government (Miscellaneous Provisions) Act 1976 that deal with the granting of licences to drive taxis and private hire vehicles and licences to operate private hire vehicles.
- 2.5 Subsection (2) changes the law in such a way as to establish a standard duration of three years for taxi and private hire vehicle driver licences. The section specifies that a licence may be granted for a period of less than three years but only in the circumstances of an individual case, not because of a blanket policy.
- 2.6 Subsection (3) changes the law in such a way as to establish a standard duration of five years for a private hire vehicle operator licences. The section specifies that a licence may be granted for a period of less than five years but only in the circumstances of an individual case, not because of a blanket policy.
- 2.7 Section 11 (private hire vehicles: sub-contracting) inserts two new sections (55A and 55B) into the Local Government (Miscellaneous Provisions) Act 1976 in relation to the sub-contracting of bookings from one private hire vehicle operator to another.
- 2.8 The above is a major amendment to the 1976 Act affecting taxi and private hire drivers and operators. The deregulation will have far reaching implications for private hire operators in relation to the sub-contracting of bookings from one private hire vehicle operator to another.
- 2.9 There is currently no detailed information or operational guidance on these deregulation measures available from the Government, DfT or other organisations.
- 2.10 Substantial opposition was mounted by this Authority in conjunction with the Police and Crime Commissioners, Suzy Lamplugh Trust, Unite the Union, GMB and UNISON at a national level and the Local Government Association. A particular Member of the House of Lords was also lobbied to represent the interest of Leeds. The consequence was that the proposal to allow anybody to drive a licensed vehicle for social, domestic or pleasure purposes was withdrawn but the remaining three proposals progressed and become live Acts of Parliament in October 2015. **See Appendix 1** for the general theme of those expressed concerns.

3 Main issues

3.1 The individual changes mean that:

3.2 3 year driver licences

A Council can still grant a licence for a period of less than 3 years but it has to demonstrate that it is not a blanket policy. Although it is new legislation it does not appear to present significant difficulties to this Authority because the licensing Committee has previously approved a policy for the granting of driver licences for a period of more than one year which takes into account a number of factors that

contribute to reducing risk to public and the Council. It is felt that the policy can be appropriately applied to this part of the Act.

3.3 Private Hire Operator licences – 5 year grant

Currently licences can be granted for up to a maximum of 1 year and this legislative change presents some challenges that the section is having to work with in terms of appropriate fee setting. The greater concern is that legislation, as it stands, does not allow a local Authority to place conditions upon a licence following the grant of that licence. As the licensing environment changes and the Council needs to impose different types of controls on Operators (an example would be safeguarding training) it now cannot do that in a timely way there is a need for further legislation to rectify that.

Constructive opportunities are being discussed with the trade that might enable their individual preference of the length of licence grant to be their choice. There could be a significant financial benefit to them by retaining a yearly licence.

3.4 Sub-contracting

This presents significant difficulties for the Council in conducting its enforcement activities and to the public in terms of service standards and potentially public safety.

- No powers to conduct any enforcement activity on PHV's not licensed by this Authority.
- Significant difficulties in verifying whether a pre booking was in place when investigating plying for hire concerns
- Confusion for the public who may not recognise the vehicle which turns up and cannot readily verify the credentials of the driver
- Investigations will become protracted and on a national basis.
- Timescales for summary prosecutions (6 months) would be extremely tight.
- Operators could pick the least challenging authorities in which to be licensed to set up base there and simply transfer bookings from the Leeds district to that operating base
- Licensed vehicles from other licensed authorities may have minimal exterior identification creating opportunities for criminals, unlicensed drivers or sexual predators to more easily slip under the radar on opportunist illegal journeys.
- Leeds City Council is reliant on other authorities having an enforcement capacity dedicated to Taxi & Private Hire Licensing.
- Risk to the Section funding if a significant percentage of drivers migrate to other less regulated authorities.

In effect this part of the Act could virtually put enforcement capability out of reach of the licensing authority.

3.5 These concerns are shared across many leading authorities but the effects are more likely to be significant in areas such as Leeds, Manchester, Birmingham and other large cities but not exclusively so. Leeds is working within the remit of the West Yorkshire Combined Authority to try and establish some common licensing standards and enforcement compatibility across the West Yorkshire area. Some of the key issues being considered by the Combined Authority are the following:-

- Safeguarding – Child Sexual Exploitation – human trafficking – a common minimum training standard for the trade
- Driver - application process – improved common minimum standards
- English comprehension - common minimum standards for new applicants, only applicable to existing drivers. It would only apply to existing licence holders where there was an identified need with the focus being on training and development within an agreeable timeframe.
- Convictions policy and convictions criteria – a standard criteria be adopted.
- Decision making – Scheme of Delegation - All local Authorities introduce a scheme of delegation to Officers for decision making
- Private Hire Operator conditions – a common standard across the Combined Authority
- Private Hire vehicle conditions - All West Yorkshire licensed vehicles have similar recognisable door livery which deforms when removed.
- Common Bye Laws – Hackney Carriages – a common standard across the Combined Authority
- Enforcement capability - That each Authority sets out a clear ring-fenced budget and produces annual accounts to demonstrate to the licence holders that all money is being used lawfully and appropriately. Officers to prepare information sharing protocol and implement.
- Authorised Officer status - Licensing and Enforcement Officers able to carry out inspection and suspension powers on vehicle licensed by any WY Authority through the scheme of delegation of powers being co-ordinated across all WY Authorities to enable more efficient enforcement action

3.6 The Taxi and Private Hire Section has a staffing structure of 10 Enforcement Officers (some positions are being recruited to) and has introduced a new rota that enables Officers to work all nights of the week across a year up until 04.30 hours and it is considered that this staffing level is adequate for the provision of

enforcement activity under current legislation but may need reviewing following the implementation of the legislative changes.

3.7 The Section will be working co-operatively with West Yorkshire Police and looking towards undertaking test purchasing operations to detect plying for hire offences particularly with vehicles not licensed by this Authority.

3.8 Members will recall they approved a condition on Private Hire Operator licences which imposed a condition on the operating licence that there was an intercept message on incoming calls pointing out the issues around 'out of town' Hackney Carriages undertaking Private Hire bookings. Consideration is being given to a similar condition which highlights the issues around the sub-contracting of bookings. It is hoped that Private Hire Operators in Leeds will take a positive lead for the city in supporting the proposals being put to them at the next forum.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 This is a public report and the public and the trade can contribute to the wider issues raised by this change in legislation as awareness is created of the potential safety issues via the media. Any such contributions would contribute to the expression of concern being raised by Members and Officers. Consultation on any proposed changes to Private Hire Operator conditions would be widely consulted upon.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 An Equality Impact assessment undertaken at the point there was to be a change to policy or conditions.

4.3 Council policies and Best Council Plan

4.3.1 The Taxi & Private Hire Licensing policies contribute to the following aims:

Best Council Plan 2013 -17

Towards being an Enterprising Council

Our Ambition and Approach

Our Ambition is for Leeds to be the best city and Leeds City Council to be the best council in the UK – fair, open and welcoming with an economy that is both prosperous and sustainable so all our communities are successful.

Our Approach is to adopt a new leadership style of civic enterprise, where the council becomes more enterprising, business and partners become more civic, and citizens become more actively engaged in the work of the city.

Our Best Council Outcomes

Make it easier for people to do business with us

Our Best Council Objectives

Promoting sustainable and inclusive economic growth – Improving the economic wellbeing of local people and businesses. With a focus on:

- Helping people into jobs,
- Boosting the local economy
- Generating income for the council

Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city. With a focus on;

- Getting services right first time
- Improving customer satisfaction

4.3.2 The Taxi & Private Hire Licensing policies contribute to priorities:

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

4.3.3 Safeguarding children and vulnerable adults:

4.3.4 Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and vulnerable adults across all of its services. This cannot be achieved by any single service or agency. Safeguarding is ultimately the responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or vulnerable adults.

4.4 Resources and value for money

4.4.1 Leeds City Council Taxi & Private Hire Licensing has a ring-fenced budget with all fees being retained solely for licensing purposes. There may be financial challenges which cannot be evaluated at the moment but the expenditure is closely monitored and any emerging needs would have to be met from the reserve fund or fee variations. The opportunities to seek costs from defendants will be strongly pursued by solicitors representing the Council at court.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The main issue is that the Council complies with the new legislation and Officers feel that the clauses relating to the duration of Operator and driver licences will be adequately met.

4.6 Risk Management

4.6.1 The main threats to the Council are outlined at 3.4 and enforcement activity may contribute to mitigating against 'out of town' vehicles plying for hire but the higher safety risk is caused by the new legislation masking unlicensed drivers carrying out unlawful activities away from their own licensing district with no powers to confront them. Officers feel that all of the issues highlighted at 3.4 may lead to a reduction in public safety and trade accountability across all large cities in the UK.

- 4.6.2 Enquiries with DfT reveal that there is no recent relevant advice from them but they do anticipate supplying some guidance to local Authorities prior to the De-Regulation Act going 'live'.

5 Conclusions

- 5.1 There are unknown consequences in terms of scale of illegal activity or how the market will reshape to a national picture and affect Leeds. Members will appreciate that this Council takes a strong stance on illegal activity and that will continue to be the case with drivers from any Authority who commit offences within this licensing district, but will appreciate there will be challenges to face.
- 5.2 It is important that the energies of the Council continue to be directed towards meaningful changes to legislation that will enable Enforcement Officers to engage more positively with licensed or unlicensed drivers from outside of the city. This will be undertaken with the Local Government Association and any other collaborative working arrangements with other agencies or local Authorities that can be taken up.

6 Recommendations

- 6.1 That Members note the report.

7 Background documents¹

- 7.1 De-Regulation Act 2015

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

The Guardian

Lords vote on reduced taxi regulation criticised by Labour and charities

Safety campaigners and shadow transport secretary say allowing booked taxi firms to subcontract puts women in danger

The controversial deregulation bill brought by the coalition would allow taxi firms to subcontract rides and end annual renewal of licences.

[Gwyn Topham](#), transport correspondent

Monday 20 October 2014 18.09 BST Last modified on Tuesday 21 October 2014 00.20 BST

Plans to loosen laws regulating taxis will be voted on in the [House of Lords](#) on Tuesday amid warnings from safety campaigners that passengers will be put at risk.

The changes would allow taxi firms to subcontract bookings to other operators, and end the annual renewal of licenses.

A range of charities, [Labour](#), and almost half of the country's elected police commissioners have voiced opposition to plans for taxis laid down in a wider deregulation bill, brought by the coalition to reduce the number of rules affecting businesses.

Ministers have already backed down on a proposal to allow anyone to drive a licensed vehicle when it is off duty, due to fears that rogue drivers would find it easier to operate illegally. But campaigners believe the two remaining clauses still pose risks.

Mary Creagh, shadow transport secretary, said: "The government's disastrous proposals to deregulate taxis risk putting women in danger. Despite months of warnings from Labour and safety campaigners ministers are pressing ahead with their risky plans to loosen taxi licensing and allow cabs to work out of area.

"Labour will be opposing these irresponsible changes to taxi law. Ministers need urgently to review these measures and we repeat our offer to work with them to get the rogues off the road."

Polling from the Local Government Association (LGA) indicated that 80% of women would be concerned if they booked a journey with one firm and a different one turned up.

The moves to deregulation come soon after potential dangers highlighted by the inquiry into the Rotherham abuse scandal, which reported that "one of the common threads running through child sexual exploitation across England has been the prominent role of taxi drivers in being directly linked to children who were abused".

Organisations ranging from the Suzy Lamplugh Trust to the National Private Hire Association and unions Unite and GMB oppose the plans. Ann Lucas of the LGA said: "Councils support comprehensive reform of taxi licensing but on the basis of the whole of the recent Law Commission

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report and not through this unwise piecemeal approach that could have a negative impact on public safety.”

The clauses only apply outside the capital, as London’s taxis are regulated by the city’s transport authority, [Transport](#) for London.

THE SUZY LAMPLUGH TRUST

PUBLIC SAFETY PUT AT RISK BY PROPOSED REFORMS TO TAXI AND MINICAB LICENSING REFORMS

By Administrator In Trust News

Suzy Lamplugh Trust is concerned that new clauses which the Government is currently pushing through Parliament will undermine the safety of taxi and minicab passengers.

Clauses 8, 9 and 10 of the Deregulation Bill, which first appeared at the Bill Committee Stage, will allow:

- anyone to drive a licensed vehicle when it is not being used for work purposes,
- licensing authorities to renew licences less frequently than at present and
- taxi and minicab firms to subcontract to other firms.

Suzy Lamplugh Trust is disappointed that, rather than wait for the planned report on taxi and private hire vehicle licensing from the Law Commission, the Government has used the Deregulation Bill Committee Stage to bring forward these clauses in a piecemeal fashion and without full and transparent consultation with all those affected including charities and women's groups promoting personal safety.

Suzy Lamplugh Trust believes that by pre-empting the outcome of the detailed Law Commission review of all related legislation which would allow some of the new clauses to be considered the context of the legislation as a whole, the Government is putting the safety of the general public at risk.

Suzy Lamplugh Trust calls for the removal of all three clauses from the Deregulation Bill.

Suzy Lamplugh Trust has campaigned for safer taxis and minicabs since the early 1990s and was instrumental in campaigning for the Private Hire Vehicles (London) Act in 1998.

Since then the Trust has continued to raise awareness of the danger of illegal minicabs and the importance of planning in advance to get home safely. In 2011, it worked with TFL, Travelwatch and other groups to raise the issue of the necessity of enhanced CRB checks being made available to all taxi licensing authorities as part of the licensing process.

Suzy Lamplugh Trust responded to the Law Commission's consultation on taxi and PHV (private hire vehicle) regulations but were not made aware of these proposed clauses until they were brought before the Deregulation Bill Committee, nor included in the Department for Transport's 'targeted informal consultation' which was sent to a small number of stakeholders in early 2014. Inclusion in this consultation or notification of the Government's plans to bring the proposed clauses into the Deregulation Bill would have given the Trust and others the opportunity to provide considered feedback on the proposals before now.

The Trust hopes that their concerns and the concerns of other stakeholders will be taken into account at this late stage.

Ends

http://www.publications.parliament.uk/pa/bills/cbill/2013-2014/0191/cbill_2013-20140191_en_1.htm

The Trust's position on the three new clauses introduced to the Deregulation Bill by the Government are as follows:

CLAUSE 8 – PRIVATE HIRE VEHICLES: CIRCUMSTANCES IN WHICH DRIVER'S LICENCE REQUIRED

This clause permits anyone to drive a licensed vehicle when it is not being used for work purposes. Should anyone be able to drive a PHV, it would therefore be impossible to be assured that the person driving a vehicle is in fact the person who has been through the proper vetting process for licensed drivers. We believe that passengers and potential passengers of these vehicles need to be assured that drivers are thoroughly checked and that by allowing unchecked, unlicensed drivers to drive a licensed vehicle, the potential for a member of the public to be picked up by an unscrupulous individual purporting to be a legitimate driver in a licensed vehicle would increase.

We believe that the reverse burden of proof in the Clause does not provide the necessary protection and assurances for passengers, as it relies on the vehicle being stopped once the passengers are in it. We believe that it is right that licensing officers should not have the power to stop moving vehicles, as this is a role best carried out either with or by the police, but because of this, the opportunity for intervention is limited only to when the passenger is embarking or disembarking. We therefore think that, in practice, there will be relatively little that licensing authorities will be able to do to maintain safety clause is introduced as drafted.

Suzy Lamplugh Trust therefore believes that this clause should be withdrawn.

CLAUSE 9 – DURATION OF LICENCES

Both the IoL (Institute of Licensing) and Unite, GMB and RMT report that, while, most local authorities impose conditions on Private Hire drivers' licences and Private Hire operators licences requiring them to report criminal convictions within a specified period of time, these conditions are often ignored, and that, as a consequence, it is only the annual renewal process which enables the local authority to ensure that licensees have remained fit and proper for the duration of their licence. Furthermore, the IoL reports that the provision of information about drivers' convictions by the police is "haphazard", especially where information is requested from a constabulary not covering the local authority area.

We therefore share the concern of these bodies that if the duration of licences was extended to 3 years (or 5 years in the case of operators) a great many unsuitable and potentially dangerous persons would remain licensed for longer, putting the public at greater risk.

Suzy Lamplugh Trust therefore believes that this clause should be withdrawn.

CLAUSE 10 – SUB-CONTRACTING

In principle, Suzy Lamplugh Trust is open to sub-contracting between operators, on the grounds that it is often a lack of supply of taxis or PHVs which encourages individuals to take less safe means of transport, including unlicensed minicabs. However, in practice, sub-contracting should only be permitted if all personal safety risks to passengers are addressed.

For example, if sub-contracting led to increased cross-border working, Suzy Lamplugh Trust would wish to see a commitment to empowering enforcement officers to take action against drivers licensed by another authority.

We would also wish to see steps taken to ensure that passengers could identify and complain to the correct licensing authority, which could be on the other side of the country. This is a serious concern, as the legislation currently limits enforcement to a designated officer of the licensing authority, leaving enforcement officers from other councils powerless to intervene even where a journey takes place in a different local area.

We would hope that the implications of sub-contracting could be better considered and mitigated by the fuller proposals for reform from the Law Commission, which may enable this clause to be brought forward again as part of any wider necessary reform.

Suzy Lamplugh Trust therefore believes that work on cross-border sub-contracting should wait until the Law Commission has reported and that this clause should be withdrawn.

Suzy Lamplugh Trust therefore believes that this clause should be withdrawn.

Local Government Association briefing:

Deregulation Bill: Taxis and Private Hire Vehicles

3 February 2015

KEY MESSAGES

- The LGA opposes clause 10 and 11, the remaining two deregulation measures relating to taxi and Private Hire Vehicle (PHV) licensing. We are not in principle opposed to deregulation in taxi licensing, however this should be implemented as part of a package of reforms covering all aspects of taxi and PHV licensing, rather than through a piecemeal approach. The Law Commission report provides a solid foundation for the reform of taxi licensing, following further consultation with taxi and PHV drivers and firms, licensing authorities and those who use taxis and PHVs.
- If the clauses are not withdrawn, then we support the introduction of safeguard measures to mitigate against the risks associated with clauses 10 and 11 being introduced as tabled.
- In particular, we support amendments four and five tabled by Baroness Thornton. They seek to mitigate the risk of sub-contracting by requiring the consent of the hirer before a booking can be passed on. The amendments also propose allowing a licensing authority to exercise its powers over a licensed private hire vehicle or taxi operating in their area, even if the licence was issued by another licensing authority.
- Recent child sexual exploitation cases have highlighted the way in which the trust that people place in taxi and PHV drivers can be abused. Rather than implementing isolated deregulation measures, our focus should be on preventing taxis and PHVs from being misused in the future. Therefore, we urge the Government to accept amendments four and five.

CLAUSE 10 – VETTING THE SUITABILITY OF DRIVERS

- The LGA is in principle supportive of this proposal and the objective of reducing burdens for the vast majority of law-abiding firms and drivers who provide a quality service. The proposal is consistent with our Rewiring Licensing proposal for licences to be issued for life, providing there are appropriate safeguards in place, including powers to check, suspend and revoke them if required. However, it is crucial the existing gaps in vetting drivers are addressed before this measure is introduced.
- The LGA and its member authorities are deeply concerned that, since the Jay report was published, the Disclosure and Barring Service (DBS) has informed some councils that they cannot check drivers against the barred lists for those working with children or vulnerable adults, unless they are delivering a school contract.

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- Taxi drivers will routinely be working with vulnerable adults and children as part of their daily work, and not just when delivering a school contract. It is imperative that councils continue to be able to check drivers against these lists when considering whether a driver is a fit and proper person.
- At the same time, there is widespread confusion among the police about sharing information with councils. Many police forces have now stopped sharing appropriate and relevant information with councils about investigations into prospective drivers. This can include offences like murder, rape and child sexual exploitation where no conviction has been secured. This means councils can be unaware of these issues when granting a licence for a driver.
- Some councils already issue licences on a three year basis, but in doing so have relied on the police sharing intelligence about any relevant convictions or investigations that may take place within the three year period. These councils are now concerned that they cannot licence for this period of time without that intelligence being provided.
- In light of this, we absolutely oppose measures that would reduce the frequency of disclosure checks, which will be a consequence of clause 10, and demand a guarantee from the Department of Transport and the Home Office that access to this information will be returned and maintained in the future, without risk of it being removed again.
- As an absolute minimum, it must be acceptable for councils to use their discretion, as provided by the clause, to typically grant three year licences only when a driver has signed up to the additional notifications service offered by the DBS. This costs a mere £10 and ensures that the council issuing licences is notified if a driver is convicted of an offence.

CLAUSE 11 – SUB-CONTRACTING

- Clause 11 of the Deregulation Bill would enable minicab firms to sub-contract bookings to firms licensed in a different district. Currently sub-contracting can only take place between firms licensed in the same district. The clause does not specify how many times a booking could be sub-contracted.
- The LGA opposes the clause on the grounds that it is being brought forward without the necessary accompanying safeguards proposed by the Law Commission, such as creating an offence to sub-contract bookings to an operator or driver who a person has reason to suspect is operating unlawfully (recommendation 14 of the Law Commission report). This highlights the risks in bringing forward isolated aspects of the Law Commission report in advance of a full programme of reform based on the full report.
- However, as the Government seems unwilling to remove the clause in its entirety, the proposals should be amended along the lines set out in amendments 4 and 5. They seek to mitigate the risk of sub-contracting by requiring the consent of the hirer before a booking can be passed on. The amendments also propose allowing a licensing authority to exercise its powers over a licensed

private hire vehicle or taxi operating in their area, even if the licence was issued by another licensing authority.

FURTHER CONCERNS

- In the Deregulation Bill's present form, there appears to be no requirement for the firm with whom the booking is made to advise the customer if it is being sub-contracted, or to ensure an audit trail of the process of doing so. This is a concern to the public, as demonstrated by opinion polling undertaken for the LGA which indicated that 80 per cent of women would be concerned if they booked a journey with one firm and another turned up.
- When people get into a PHV driven by someone they do not know, they are placing a great deal of trust in both the driver and the operating company. Customers should be advised if the service is to be provided by a different company, particularly if the firm is from a different area, and note that the Law Commission report included this recommendation as part of its proposals (recommendation 19).
- The LGA is also extremely concerned at the proposal to allow sub-contracting across different licensing districts when there are still limitations on licensing authorities' enforcement powers in regard to drivers and companies that are licensed in other districts.
- Currently, licensing authorities can only take enforcement action against drivers and firms they themselves licence; yet this proposal creates new opportunities for drivers and firms to operate outside the district where they are licensed. This means that licensing authorities in the area where a booking is made would not have the power to take enforcement action against a driver from another district in the event of a problem with the journey.
- This leaves unanswered questions about who would retain responsibility in the event that the sub-contractor was unable to deliver the contract (for instance, in the event of a breakdown or puncture); as well as consumer protection issues surrounding the question of how a passenger can identify and complain to the correct licensing authority, which could be on the other side of the country.
- The Law Commission set out proposals for a much needed overhaul of taxi and PHV licensing, following full engagement with councils and trade bodies. The Commission's report provides a solid foundation for the reform of taxi licensing, following further consultation with taxi and PHV drivers and firms, licensing authorities and those who use taxis and PHVs. We note that the proposals in the Deregulation Bill were subject to an extremely limited informal consultation with just eight organisations over a ten day period.
- The Law Commission report does advocate the measures included in the Deregulation Bill, however it also attaches to them a number of safeguards which have not been included in the current proposals. More broadly, the Commission's report makes these recommendations as part of a much wider reform of taxi and PHV enforcement powers for licensing authorities, which would

give them more effective powers to take action when problems occur, as well as reducing burdens on responsible operators and drivers.

- **Revised versions of clauses 10 and 11 should be brought forward as part of a comprehensive reform package in the next Parliament following a detailed consultation with all stakeholders.**

i <http://www.local.gov.uk/documents/10180/5854661/L14-40+rewiring+open+for+business.+v3.pdf/6b8aa308-94cd-4af5-9b3a-5f2696a9a4b5>

ii http://lawcommission.justice.gov.uk/docs/lc347_taxi-and-private-hire-services_summary.pdf

The National Committee of NALEO are pleased to report that DfT have released the following information on this subject.

02/06/2015

‘DfT have today indicated, in response to enquiries from NALEO and other Trades’ Groups members, that they are considering whether Best Practice Guidance should be updated to reflect the changes brought about by the “Taxi and Private Hire” clauses of the Deregulation Act 2015. DfT also state that other matters in the guidance may need revision and that interested parties will be consulted prior to any new guidance being issued.