

## DINAS A SIR ABERTAWE

### HYSBYSIAD O GYFARFOD

Fe'ch gwahoddir i gyfarfod

### PWYLLGOR TRWYDDEDU CYFFREDINOL

**Lleoliad:** Siambr y Cyngor, Neuadd y Ddinas, Abertawe

**Dyddiad:** Dydd Gwener, 8 Medi 2017

**Amser:** 10.00 am

**Cadeirydd:** Cynghorydd Penny Matthews

#### **Aelodaeth:**

Cynghorwyr: C Anderson, J P Curtice, P Downing, V M Evans, S J Gallagher, P Lloyd, H M Morris, C L Philpott, B J Rowlands, L G Thomas a/ac L V Walton

### AGENDA

Rhif y Dudalen.

- 1 Ymddiheuriadau am absenoldeb.
- 2 Derbyn datgeliadau o fuddiannau personol a rhagfarnol.  
[www.abertawe.gov.uk/DatgeliadauBuddiannau](http://www.abertawe.gov.uk/DatgeliadauBuddiannau)
- 3 **Cofnodion:** 1 - 4  
To Cymeradwyo a llofnodi fel cofnod cywir gofnodion y cyfarfod(ydd) blaenorol.
- 4 **Equality Act 2010.** 5 - 8
- 5 **Ymateb i ddogfen ymgynghori Llywodraeth Cymru - Trwyddedu Tacsis a Cherbydau Hurio Preifat yng Nghymru.** 9 - 49
- 6 **Cynnig i ddiwygio Amod 23 Cerbyd Hurio Preifat Cyfyngedig.** 50 - 51
- 7 **Gwahardd y cyhoedd.** 52 - 55
- 8 **Deddf Llywodraeth Cymru (Darpariaethau Amrywiol) 1976 - Cais am Drwydded Gweithredwr Hurio Preifat - UBL.** 56 - 71
- 9 **Deddf Cyfrifoldebau Heddluoedd Tref 1847 - Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 - Cais am Drwydded Cerbyd Hacni a Gyrrwr Hurio Preifat - II.** 72 - 76
- 10 **Deddf Cyfrifoldebau Heddluoedd Tref 1847 - Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 - Cais am Drwydded Cerbyd Hacni a Gyrrwr Hurio Preifat - MHIF.** 77 - 82

**11 Deddf Cydraddoldeb 2010 - Teithwyr mewn Cadeiriau Olwyn -  
Cais am Dystysgrif Eithrio - MAC.**

**83 - 86**

**Cyfarfod Nesaf:** Dydd Gwener, 13 Hydref 2017 ar 10.00 am



**Huw Evans  
Pennaeth Gwasanaethau Democrataidd  
Dydd Gwener, 1 Medi 2017**

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**Cyswllt: Gwasanaethau Democrataidd - Ffon: (01792) 636923**

## CITY AND COUNTY OF SWANSEA

### MINUTES OF THE GENERAL LICENSING COMMITTEE

HELD AT COUNCIL CHAMBER, GUILDHALL, SWANSEA ON FRIDAY,  
11 AUGUST 2017 AT 10.00 AM

**PRESENT:** Councillor P M Matthews (Chair) Presided

**Councillor(s)**

C Anderson

V M Evans

C L Philpott

**Councillor(s)**

J P Curtice

S J Gallagher

B J Rowlands

**Councillor(s)**

P Downing

P Lloyd

L V Walton

**Officer(s)**

L Anthony

K Thomas

Divisional Officer, Licensing, Food and Safety  
Licensing Officer

S Woon

G White

Democratic Services Officer

Solicitor

**Apologies for Absence**

Councillor(s): H M Morris and L G Thomas

31 **TO RECEIVE DISCLOSURES OF PERSONAL & PREJUDICIAL INTERESTS  
FROM MEMBERS.**

In accordance with the Code of Conduct adopted by the City and County of Swansea, the following interests were declared:

Councillor C Anderson – Personal – Minute no. 35 - Town Police Clauses Act 1847 – Local Government (Miscellaneous Provisions) Act 1076 – Application for the Grant of a Hackney Carriage and Private Hire Driver’s Licence – PJCT – individual is known to me. Councillor C Anderson left prior to consideration of this item.

Councillor J P Curtice – Personal – Minute no. 34 – Town Police Clauses Act 1847 – Local Government (Miscellaneous Provisions) Act 1976 – Dual Badge Driver – TJH – individual is known to me. Councillor J P Curtice left the meeting prior to consideration of this item.

32 **MINUTES:**

**RESOLVED** that the Minutes of General Licensing Committee held on 14 July, 2017, be agreed as a correct record.

33 **EXCLUSION OF THE PUBLIC.**

The Committee was requested to exclude the public from the meeting during the consideration of the items of business identified in the recommendations to the report

on the grounds that it involved the likely disclosure of exempt information as set out in the exclusion paragraph of 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information)(Variation)(Wales) Order 2007, relevant to the item of business as set out in the report.

The Committee considered the Public Interest Test in deciding to exclude the public from the meeting for the items of business where the Public Interest Test was relevant, as set out in the report.

It was **RESOLVED** that the public be excluded for the following items of business.

**(CLOSED SESSION)**

34 **TOWN POLICE CLAUSES ACT 1847 - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - DUAL BADGE DRIVER - TJH.**

The Solicitor detailed the reasons as to why this matter was before Committee. TJH was previously before the General Licensing Committee, on 14<sup>th</sup> July 2017, due to two issues:

- a. Vehicle licence; &
- b. Hackney Carriage and Private Hire driver licences.

At the last Committee Hearing on 14<sup>th</sup> July 2017, Members decided not to take any further action in relation to the Vehicle licence.

In relation to the Hackney Carriage and Private Hire driver licence, there was a procedural error which meant Members dealt with the matter as a disciplinary and not as a renewal. This oversight was identified and would be rectified at this Committee Hearing – 11<sup>th</sup> August 2017. It was made clear that TJH had not been prejudiced as the Applicant's Hackney Carriage and Private Hire driver licence had been extended from 14<sup>th</sup> July 2017 to 11<sup>th</sup> August 2017.

The Divisional Officer, Licensing, Food & Safety, detailed the background in respect of TJH's application for renewal of the hackney carriage and private hire driver's licences and answered Members' and Officer questions.

TJH explained the circumstances of the offence and answered Member's questions relating to the matter.

**RESOLVED** that

- 1) TJH's Hackney Carriage and Private Hire Driver Licences be **RENEWED** under the Local Government (Miscellaneous Provisions) Act 1976 and TJH be issued with a strong warning letter regarding dishonesty.

35 **TOWN POLICE CLAUSES ACT 1847 - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCE - PJCT.**

The Divisional Officer, Licensing, Food & Safety, detailed the background in respect of PJCT's hackney carriage and private hire driver licence and answered Member and Officer questions.

PJCT explained the circumstances of the request and answered Member's questions relating to the matter.

**RESOLVED** that:

- 1) PJCT to submit a Group 2 Medical Certificate on an annual basis and attend three monthly examinations with the GP nurse in respect of the medical condition. The reports of all medical examinations to be provided to the Licensing Section within 5 working days of issue.

**Reason for Decision**

- 1) The Committee heard from PJCT as to why the Applicant was seeking to review the additional conditions. PJCT was of the opinion that a Group 2 Medical Certificate, every six months was unnecessary as PJCT's health had improved over the last year.
- 2) PJCT did offer to continue with the three monthly examination by the GP's surgery nurse in respect of the medical condition. PJCT also offered to submit a Group 2 Medical Certificate annually instead of each six months.
- 3) A taxi driver holds a very responsible position and the health of a taxi driver is very important. The Committee were encouraged to hear PJCT's health has improved, is serious in regard to health and is committed to ensuring the Applicant remains healthy.
- 4) The Committee accepted PJCT's proposals of submitting a Group 2 Medical Certificate each year and by submitting the three monthly reports from the GP's surgery nurse in respect of PJCS's medical condition.

36 **TOWN POLICE CLAUSES ACT 1847 - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE - AJR.**

The Divisional Officer, Licensing, Food & Safety, detailed the background in respect of AJR's application for a hackney carriage and private hire driver's licence and answered Members' questions.

AJR explained the circumstances of the offence/endorsement and answered Member and Officer questions relating to the matter.

**RESOLVED** that:

- 1) AJR's application for the grant of a Hackney Carriage and Private Hire Driver's Licence be **REFUSED** under sections 51, and 59 of the Local Government (Miscellaneous Provisions) Act 1976.

**Reason for Decision**

- 1) A taxi driver holds a very responsible position &, for many, they represent the face of the City & County of Swansea. It was noted that large number of persons depend on taxi drivers in or around the Swansea area. It is paramount, therefore, that a driver is a fit and proper person.
- 2) The Committee were minded that there appeared to be an absence of any real mitigation nor was there any attempt by AJR to address their propensity to speed. There appeared to be a disregard to the motoring offences.
- 3) There Applicant appeared to show no remorse for the driving offences and Members had no confidence in AJR. The Committee did note that the last conviction for a motoring offence was committed whilst there were passengers in the taxi.
- 4) The Committee heard AJR had not voluntarily enrolled on a speed awareness course as there were financial issues. Even though the Committee understood applicants may have financial pressures or issues, ultimately, Members cannot take personal circumstances into account when considering whether AJR was fit and proper to hold a licence.
- 5) The Committee were of the view that AJR may wish to voluntary enrol themselves on a speed awareness course in the future.
- 6) Members were concerned that AJR spent the majority of the Hearing taking issue with the particular code of a motoring offence. The Applicant claimed the code was wrong but confirmed the offence was in relation to speeding. The Committee were of the opinion, AJR should have used this time more wisely to evidence the Applicant was a fit and proper person.
- 7) The Committee did not deem AJR to be a fit and proper person.

The meeting ended at 11.08 am

**CHAIR**

**REPORT OF THE DIVISIONAL OFFICER**  
**LICENSING, FOOD & SAFETY**  
**TO THE GENERAL LICENSING COMMITTEE**  
**8th SEPTEMBER 2017**

**Equality Act 2010**

**1.0 Purpose of the Report**

- 1.1 To provide information to Members in relation to Section 165 and 167 of the Equality Act 2010.
- 1.2 To determine whether to maintain a list of designated vehicles in accordance with the Equality Act 2010.

**2.0 Background**

- 2.1 This report is to provide information to Members in respect of Sections 165 and 167 of the Equality Act 2010 which have recently been commenced.
- 2.2 Section 165 of the Act places a legal requirement on drivers of all licensed hackney carriage and private vehicles, which are wheelchair accessible, to carry passengers in wheelchairs, provide assistance to those passengers, and prohibits them from charging extra for the fare.
- 2.3 Section 167 of the Act provides Local Authorities with powers to publish a list of "designated vehicles" i.e. hackney carriage and private hire vehicles that are wheelchair accessible. The Council does not have to publish a list, however the Government strongly suggest that they do so and the responsibility imposed on drivers (outlined above) does not take effect until the Licensing Authority publishes such a list. The Council currently has in place conditions and byelaws which require drivers to assist passengers with reasonable amounts of luggage, to give reasonable assistance and also to take a disabled person with a guide, hearing or other assistance dog unless they have a medical exemption.
- 2.4 Members are being asked to determine whether the Council should publish and maintain a list of designated vehicles in accordance with the requirements of the Equality Act 2010.

**3.0 Requirements of the Equality Act 2010**

- 3.1 On the 6th April 2017, Section 165 and 167 of the Equality Act 2010 were commenced.
- 3.2 Section 165 of the Equality Act 2010 places specific 'duties' on the driver of a "designated vehicle" i.e. hackney carriage and private hire

vehicles that are wheelchair accessible. These duties are:

- to carry the passenger while in the wheelchair;
- not to make any additional charge for doing so;
- if the passenger chooses to sit in a passenger seat, to carry the wheelchair;
- to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
- to give the passenger such mobility assistance as is reasonably required: to enable the passenger to get into or out of the vehicle; if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair; to load the passenger's luggage into or out of the vehicle; if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

3.3 Section 167 of the Act provides the Council with the powers to make lists of wheelchair accessible vehicles (i.e. "designated vehicles"). Whilst Local Authorities are under no specific legal obligation to maintain a list under the Act, the Government recommends strongly that they do so. Without such a list, the requirements of Section 165 of the Act would not apply. The Council currently has in place conditions and byelaws which require drivers to assist passengers with reasonable amounts of luggage, to give reasonable assistance and to take a disabled person with a guide, hearing or other assistance dog unless they have a medical exemption.

3.4 Some drivers may have a medical condition or a disability or physical condition which makes it impossible or unreasonably difficult for them to provide the sort of physical assistance which these duties require. That is why the Act allows the Council to grant exemptions from the duties to individual drivers.

3.5 Drivers who have been granted an exemption will be issued with a notice, which must be displayed in the vehicle.

#### **4.0 Officer Observations**

4.1 A draft list of "designated vehicles" has been produced and it is proposed that any hackney carriage or private hire vehicle that is capable of carrying a wheelchair (with the user in situ), be included on the list. There are currently 293 hackney carriage vehicles out of a possible 401 hackney carriage vehicles that have this ability (numbers



correct at time of writing report). There are currently no licensed private hire vehicles with wheelchair access capability.

- 4.2 The designated vehicles list will need to be maintained and it is proposed that an updated list be published on the Council's website on a monthly basis.
- 4.3 Should Members agree that the Council publish and maintain a list of designated vehicles, then information in respect of the driver responsibilities, medical exemptions and appeals will be circulated to all licensed drivers and where appropriate drivers can then apply for an exemption.
- 4.4 It is proposed that the first list of designated vehicles be published on the 30th November 2017. This will allow sufficient time for drivers who need to apply for an exemption to arrange for a medical assessment to be undertaken with their own G.P and for any applications to be determined by the General Licensing Committee.
- 4.5 The published list will detail whether the vehicle is hackney carriage or for private hire use only and the make and model of the vehicle.
- 4.6 Once the list is published, it will be an offence for the driver (unless exempt) of a taxi or private hire vehicle which is on the designated list to fail to comply with the duties listed above.

## **5.0 Equality Impact Assessment**

- 5.1 A Screening Assessment has been undertaken to assist the Council in implementing an administrative process for taxi/private hire operators/drivers in line with the Equality Act 2010 and it is not anticipated that this will have any effect on their service users.

## **6.0 Legal Impacts**

- 6.1 There is a right of appeal against a decision to include a vehicle on the designated list to the Magistrates' Court.
- 6.2 There is a right of appeal against a decision to refuse to grant an exemption certificate to the Magistrates' Court.

## **7.0 Recommendation**

It is recommended that :

Members approve the proposal to publish and maintain a list of designated vehicles in accordance with the Equality Act 2010.

**The Licensing Committee's instructions are requested.**

**Background Papers:       None**  
**Contact Officer:         Yvonne Lewis**  
**Extension:                 5600**  
**Legal Contact:            Aled Gruffydd**

**REPORT OF THE DIVISIONAL OFFICER  
LICENSING, FOOD & SAFETY  
TO THE GENERAL LICENSING COMMITTEE  
8<sup>th</sup> September 2017**

**RESPONSE TO WELSH GOVERNMENT CONSULTATION DOCUMENT –  
TAXI AND PRIVATE HIRE VEHICLE LICENSING IN WALES**

**1.0 Purpose of the report**

- 1.1 To inform Members of the Welsh Government Consultation Document issued on 12<sup>th</sup> June 2017 seeking views on the framework for licensing taxis and private hire vehicles proposed by the Law Commission for England and Wales; and
- 1.2 For Members to agree the response to the proposals on behalf of the City and County of Swansea.

**2.0 Executive Summary**

- 2.1 In May 2014, the Law Commission for England and Wales published its proposals for the reform of the legislative framework governing the licensing of taxis and private hire vehicles in England and Wales. Following commencement of relevant provisions of the Wales Act 2017, licensing of taxis and private hire vehicles will be a matter within the legislative competence of the National Assembly for Wales.
- 2.2 It is under this new devolved settlement that the Welsh Government has again considered the proposals for the framework for licensing taxis and private hire vehicles put forward by the Law Commission, for the purpose of bringing new arrangements into effect in relation to Wales.
- 2.3 The proposed arrangements would:
  - a. See the introduction of national standards for all taxis and private hire vehicles, set by the Welsh Ministers, with the power for local licensing authorities to set additional standards where it is appropriate to do so;
  - b. Local licensing authorities would, however, remain responsible for issuing licences and enforcement for both taxis and private hire vehicles;
  - c. Make it easier for providers of taxis and private hire services to work across local authority boundaries and will give licensing officers new enforcement powers to deal with vehicles and drivers licensed in different areas. Tougher penalties on touting are also proposed (actively soliciting customers), including impounding vehicles;

- d. Bring pedi-cabs and novelty vehicles, including stretch limousines within the scope of taxi and private hire regulation but the exemption applied to wedding and funeral cars as part of primary legislation being retained, and
  - e. Retain the ability of local licensing authorities to limit the number of taxis working in their licensing area.
- 2.4 The Welsh Government considers that the majority of the recommendations put forward by the Law Commission would, if introduced, clarify and simplify the legislation governing the licensing of taxis and private hire vehicles.
- 2.5 On this basis Welsh Government are supportive in principle of the majority of the proposals in relation to taxi and private hire vehicle regulation in Wales.
- 2.6 There are however, some recommendations that in the Welsh Government's opinion require further detailed consideration. The purpose of the policy consultation is to seek views on these specific recommendations.

### **3.0 The Consultation**

- 3.1 This public consultation was launched by the Welsh Government on 12<sup>th</sup> June 2017 and closes on 8<sup>th</sup> September 2017. Stakeholders were also advised directly of the detail of the consultation. The full document is attached at Appendix A to this report.
- 3.2 Welsh Government has asked 11 questions in relation to specific recommendations. These questions can be found throughout the document and again on pages 26 to 31 of the consultation document.

### **4.0 Response for Consideration**

- 4.1 Officers have drafted a response to the questions in the consultation document and this is attached at Appendix B to this report for Members' consideration and approval.

**5.0 Recommendation**

- 5.1 It is recommended that Members approve the response attached in Appendix B for submission to Welsh Government for consideration.

**The Licensing Committee's instructions are requested.**

<b>Background Papers:</b>	<b>None</b>
<b>Contact Officer:</b>	<b>Yvonne Lewis</b>
<b>Extension:</b>	<b>5600</b>
<b>Legal Contact:</b>	<b>Aled Gruffydd</b>



Welsh Government

## Consultation Document

# TAXI AND PRIVATE HIRE VEHICLE LICENSING IN WALES

Date of issue: 12 June 2017

Action required: Responses by 8 September 2017

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.

## **OVERVIEW**

The purpose of this consultation is to consider proposals published by the Law Commission for England and Wales in May 2014 for the reform of taxi and private hire vehicle licensing.

## **HOW TO RESPOND**

The consultation period begins on 12 June 2017 and ends on 8 September 2017. Please ensure that your response reaches us before the required closing date.

The document is available on the internet: [consultations.gov.wales](http://consultations.gov.wales).

Please respond by:

- Completing the consultation response form at Annex A; or
- Emailing or posting your response to the contact details below.

## **FURTHER INFORMATION AND RELATED DOCUMENTS**

Large print, Braille, audio CD and alternative language versions of this consultation document can be made available on request.

## **CONTACT DETAILS**

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

Email:                [PolisiTrafnidiaethGyhoeddus.PublicTransportPolicy@wales.gsi.gov.uk](mailto:PolisiTrafnidiaethGyhoeddus.PublicTransportPolicy@wales.gsi.gov.uk)

Phone:                03000 251497

## **DATA PROTECTION**

### **How the views and information you give us will be used**

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, although we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published.

The law however, also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.



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**FOREWORD**

Taxis and private hire vehicles provide a vital public service connecting people to places when alternative public transport services are not available or viable. The contribution that the sector makes to the night time and tourism economy in many of our communities cannot be under-estimated and the industry is a vital component in our ambitions for public transport in Wales.



Taxis and private hire vehicles are an important method of transport in enabling disabled vulnerable people in our society to maintain independent living in the community. Travel by taxis and private hire vehicle is simply the only transport option for many people.

Despite the importance of this sector to our public transport ambitions, the industry remains governed by laws made when the horse drawn hackneys were a common feature on our streets. Put simply, the law is complicated, outdated and is in need of reform.

The commencement of certain provisions in the Wales Act 2017 will for the first time bring the licensing regime for taxis and private hire vehicles within the legislative competence of the National Assembly for Wales.

It is on this basis, that I am considering afresh the significant work undertaken by the Law Commission for England and Wales for the reform of the law in relation to the licensing of taxis and private hire vehicles.

I am keen to work with the industry, local licensing authorities and users to develop arrangements that may be introduced in Wales to ensure that taxis and private hire vehicles continue to contribute to our ambitions for a connected and sustainable society.

A handwritten signature in black ink, appearing to read 'Ken', enclosed within a thin black rectangular border.

**Ken Skates AM/AC**

**Cabinet Secretary for Economy and Infrastructure**

## EXECUTIVE SUMMARY

In May 2014, the Law Commission for England and Wales published its proposals for the reform of the legislative framework governing the licensing of taxis and private hire vehicles in England and Wales. Following commencement of relevant provisions of the [Wales Act 2017](#), licensing of taxis and private hire vehicles will be a matter within the legislative competence of the National Assembly for Wales.

It is under this new devolved settlement that the Welsh Government has again considered the proposals for the framework for licensing taxis and private hire vehicles put forward by the Law Commission, for the purpose of bringing new arrangements into effect in relation to Wales.

The proposed arrangements would:

- a. See the introduction of national standards for all taxis and private hire vehicles, set by the Welsh Ministers, with the power for local licensing authorities to set additional standards where it is appropriate to do so;
- b. Local licensing authorities would, however, remain responsible for issuing licences and enforcement for both taxis and private hire vehicles;

- c. Make it easier for providers of taxis and private hire services to work across local authority boundaries and will give licensing officers new enforcement powers to deal with vehicles and drivers licensed in different areas. Tougher penalties on touting are also proposed (actively soliciting customers), including impounding vehicles;
- d. Bring pedi-cabs and novelty vehicles, including stretch limousines within the scope of taxi and private hire regulation, but the exemption applied to wedding and funeral cars as part of primary legislation being retained, and
- e. Retain the ability of local licensing authorities to limit the number of taxis working in their licensing area.

The Welsh Government considers that the majority of the recommendations put forward by the Law Commission would, if introduced, clarify and simplify the legislation governing the licensing of taxis and private hire vehicles.

On this basis we are supportive in principle of the majority of the proposals in relation to taxi and private hire vehicle regulation in Wales.

There are however, some recommendations that, in our opinion, require further detailed consideration. The purpose of this policy consultation is

to seek views on these specific recommendations set out in the following paragraphs.

Opinions from stakeholders on the total package of measures proposed by the Law Commission in relation to Wales, whilst not specifically requested, will also be welcome.

A copy of the full recommendations published by the Law Commission for England and Wales, that need to be read in conjunction with this consultation document, can be accessed by visiting [consultations.gov.wales](https://www.consultations.gov.wales).

## INTRODUCTION

1. In May 2014, the Law Commission for England and Wales published its proposals for the reform of the legislative framework governing the licensing of taxis and private hire vehicles in England and Wales.
2. The proposals were developed as part of the Law Commission's Eleventh Programme of law reform, commissioned by the Department for Transport as the UK Government's department with responsibility for taxi and private hire vehicle licensing.
3. The terms of reference were to review the law relating to the regulation of taxis and private hire vehicles with a view to its modernisation and simplification, having due regard to the potential advantages of deregulation in reducing the burdens on business and increasing economic efficiency.
4. In May 2012, the Law Commission published a paper setting out its draft proposals, which were subject to a public consultation between May and October 2012.
5. More than 3000 written responses, including more than 800 replies to a survey undertaken by the Private Hire and Taxi Monthly magazine were received. Respondents included individuals to representative organisations, including taxi and private hire drivers and private hire operators, licensing officers, disability groups, specialist consultants, trades unions and the police.

6. Meetings were held with Traffic Commissioners and the Driver and Vehicle Standards Agency at different stages of the project.
7. In developing the final proposals, the Law Commission also conducted various site visits, including major taxi radio circuits and private hire operators' headquarters, touring with the taxi and private hire trades both inside and outside London, observing ranks and entertainment venues with a history of enforcement difficulties. This approach highlighted the very local and case-specific nature of some of the issues encountered by the taxi and private hire sector.
8. As part of the new devolved settlement for Wales to be introduced through the Wales Act 2017, the regulation of taxis and private hire vehicles will become a matter within the legislative competence of the National Assembly for Wales.
9. It is under this new devolved settlement that the Welsh Government is again considering the proposals for the framework for licensing taxis and private hire vehicles put forward by the Law Commission in relation to Wales.



## SUMMARY RECOMMENDATIONS MADE BY THE LAW COMMISSION FOR ENGLAND AND WALES

10. A full copy of the final proposals put forward by the Law Commission have been republished and can be viewed at: [consultations.gov.wales](https://consultations.gov.wales) as part of this consultation exercise.
11. Under current law, separate statutes regulate taxi and private hire vehicles respectively. The Law Commission has proposed a new single legal framework that retains the current two-tier system, distinguishing between taxis and private hire vehicles. Only taxis should be allowed to be hailed or pick up passengers from ranks.
12. If adopted, the proposed arrangements would:
  - a. See the introduction of national standards for all taxis and private hire vehicles, set by the Welsh Ministers, with the power for local licensing authorities to set additional conditions where it is appropriate to do so;
  - b. Local licensing authorities would, however, remain responsible for issuing licences and enforcement for both taxis and private hire vehicles;

- c. Make it easier for providers of private hire services to work across local authority borders and will give licensing officers new enforcement powers to deal with vehicles and drivers licensed in different areas. Tougher penalties on touting are also proposed (actively soliciting customers), including impounding vehicles;
- d. Bring pedi-cabs and novelty vehicles, including stretch limousines within the scope of taxi and private hire regulation, but the exemption applied to wedding and funeral cars being retained, and
- e. Retain the ability of local licensing authorities to limit the number of taxis working in their licensing area.

13. The introduction of mandatory disability awareness training for all taxi and private hire drivers was part of the package of proposed measures designed to improve the accessibility of services for disabled people. The Law Commission recommended that local licensing authorities should have the power to introduce a duty on taxis to stop when hailed, to help address the problem of certain drivers passing by disabled people.

14. The Law Commission's proposals also recommended that local licensing authorities should be required to review accessibility needs in their area every three years, and take accessibility issues into account when installing taxi ranks.

15. Furthermore, in order to help address the lack of accessible vehicles, it was recommended that the Secretary of State for Transport should have the power to require large operators (or dispatchers, as they would be referred under the proposed reforms) to meet certain quotas of accessible vehicles which must be available to them.

## **WELSH GOVERNMENT PROPOSED APPROACH**

16. In summary, the Welsh Government considers that the majority of the recommendations put forward by the Law Commission would, if introduced, clarify and simplify the legislation governing the licensing of taxis and private hire vehicles. On this basis we are supportive in principle of the majority of the proposals in relation to taxi and private hire vehicle regulation in Wales.

17. There are however, some recommendations that, in our opinion, require further detailed consideration. The purpose of this policy consultation is to seek views on these specific recommendations set out in the following paragraphs. Opinions from stakeholders on the total package of measures proposed by the Law Commission in relation to Wales, whilst not specifically requested, will also be welcome.

## Recommendation 1

18. The Law Commission recommended retaining the two tier system, distinguishing between taxis which can be hailed or use taxi ranks and private hire vehicles that must be pre booked prior to a journey being undertaken.
19. As highlighted in the Law Commission's report, a number of persuasive arguments were advanced in favour of removing the distinction between taxis and private hire vehicles. There is recognition that the public does not understand the distinction and advancement in technology means that a booking for a journey can be made within minutes of the journey taking place. Moving to a single tier regime can also better simplify licensing arrangements, the setting of national standards whilst making enforcement more straightforward.
20. In London for example, the distinction between the taxi that can be hailed on the street and private hire vehicles is perhaps more understood, with London taxis providing the convenience of immediate hire using fares that are regulated.
21. Moving to a single tier system could however, combine the characteristics of both taxis and private hire vehicles, enabling pre-booked and "there and then" hires both operating under a regulated fares model.

**Question 1: Should the two tier system be retained in Wales or should a single tier model be developed for the taxi and private hire vehicle sector in Wales?**

Recommendation 8

22. The Law Commission proposed not introducing record-keeping by taxi drivers except in respect of taxis picking up passengers outside their licensing area.
23. In principle, the Welsh Government supports the maintenance of accurate record keeping by taxi drivers for the purpose of safeguarding passengers, but it is recognised requiring records for journeys that are not pre arranged may be unreasonable.

**Question 2: 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; or**
- c. Not to require taxi drivers to maintain records**

## Recommendation 15

24. The Law Commission proposed not to require intermediaries working solely with licenced taxis (which are referred to as “radio circuits”) to be licenced.
25. Given the potential role any person could have organising taxi bookings and in doing so, would be responsible for handling potentially sensitive and personal information, the Welsh Government considers that requiring any person that is responsible for taking bookings and handling personal information should be licenced.

**Question 3: Should the arrangements for licensing taxis in Wales require any persons handling personal information to be licenced or not?**

## Recommendation 17

26. The Law Commission proposed that operator licensing should only cover dispatch functions and no longer apply to the invitation or acceptance of bookings.
27. The definition of operator for the purpose of licensing has been narrowed to that of ‘dispatcher’. This is on the grounds that it is the dispatcher that has the responsibility to pass the booking onto a licensed vehicle and the person taking the booking plays no more role than smart phone and internet sites that collate and pass on

bookings to operators presently. Unless a person taking a booking, who would not be required to be licenced under the proposals, is able to demonstrate that they had passed the booking onto a licenced dispatcher, then they will be presumed to be the ‘dispatcher’ in respect of that relevant journey. The dispatcher must be licenced.

28. The Welsh Government considers that any person who is responsible for the handling of personal information from any person seeking to make a booking for a taxi or private hire booking should be licenced to do so to so.

**Question 4: Should a person taking a booking for a private hire vehicle require to be licenced?**

#### Recommendation 36

29. The Law Commission proposed that applicants for vehicle licences should not be subject to a “fit and proper” person test.

30. During the public consultation undertaken by the Law Commission, licensing authorities in Wales argued that the provision provided a reasonable safeguard for passengers’ protection and should be retained on that basis.

**Question 5: Should the “fit and proper persons” test for the application and issue of licences be retained in Wales?**

## Recommendations 37/40

31. The Law Commission proposed that licensing authorities should not have a general power to impose individual conditions on the holders of taxi or private hire licences.
32. The Welsh Government considers that it is sensible that minimum standards are set to improve consistency of service across local authority areas in Wales. Arrangements need to be in place whereby local licensing authorities have the flexibility to add appropriate conditions on individual licence holders where the imposition of any condition is justified, reasonable and proportionate.
33. Similarly, the Law Commission proposed that private hire services should be subject only to national standards and that licensing authorities should no longer have the power to impose local conditions.
34. The Welsh Government considers that arrangements need to be in place whereby local licensing authorities have the flexibility to add additional requirements and standards that are relevant and appropriate to meet the needs of the local area, if such requirements are not featured within the national standards.

**Question 6: 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?**

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### Recommendation 53

35. The Law Commission proposed the setting of private hire licensing fees nationally which could not be varied locally. Taxi licensing fees should continue to be set locally, but at a level no lower than the national private hire fee.
36. The Commission acknowledged that fees are currently set locally on the basis of full cost recovery. It argued that the introduction of national standards for private hire vehicles could potentially reduce the variation of fee levels between neighbouring authorities.
37. The Law Commission has suggested also that national authorities should have the power to establish a scheme enabling local authorities to pool private hire licence fees for the purpose of enforcement.
38. An alternative arrangement may be to allow local licensing authorities to set fees for licensing taxis and private hire vehicles locally, but in exercising this function, having due regard to guidance issued by the Welsh Government.

**Question 7: 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?**

### Recommendation 56

39. The Law Commission recommended that local licensing authorities should be under a duty to publish their driver, vehicle and operator licensing data in such form as the national authority may require, on the basis that sharing of information between licensing authorities appeared to be a gap in the current arrangements.
40. The Law Commission concluded that there is no recognised mechanism enabling licensing authorities to check whether an applicant for a licence in one area has been subject to enforcement action in another area that has resulted in a licence being revoked.
41. It is unlikely that simply publishing information will resolve the shortcomings identified by the Law Commission and the publication of information would be of limited value to the general public. It is accepted however, that local licensing authorities should be required to record enforcement action that has resulted in removal or

suspension of a taxi or private hire licence and that this information should be made available and accessible to other licensing authorities, who shall be required to consult the information prior to an application for a licence being granted.

**Question 8: 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.**

Recommendation 61

42. In licensing areas where quantity restrictions already exist, the Law Commission proposed that vehicle licence holders should continue to be able to transfer their taxi licences at a premium. The consultation undertaken by the Commission revealed that in those areas where taxi numbers are restricted, a trade in plate values has developed, costing thousands of pounds, noting that this cost can be a financial barrier to new entrants into the market and does nothing

to encourage investment in the sector. During the consultation, some had argued that plate premiums encouraged professionalism in the taxi industry.

43. The Law Commission accepted that the trade in plate values should not be a feature of the licensing regime, but recognised that removing these values will cause financial hardship and would simply be unfair. It was proposed therefore, that regulations may make provision for establishing a procedure whereby the holder of a taxi licence may transfer his or her obligations as the holder of the licence to another person. Maintaining the value of plate fees by way of this regulation would serve to maintain the practice, accepted as unwelcome, in areas where limits on the number of taxis able to operate is currently in place.
44. An alternative approach to that proposed by the Law Commission is that any scheme designed to safeguard investment made in the transfer of licence plates should focus on 'buying out' the financial commitment for the purpose of eradicating the plate value practice.
45. Local licensing authorities in areas where the practice of buying plates is active could be allowed to use licensing fee income to fund a 'buy out' scheme. The ability to 'pool' licensing fee income could provide a funding solution for such a compensation scheme,
46. Taxi plates should be returned to the licensing authority for re-issue and are not traded between licence and prospective licence holders.

**Question 9: 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.**

Recommendations 65/67/68/69

47. As part of its proposals, the Law Commission made a series of recommendations about how local licensing authorities should exercise their functions to enable better performance of the duties set out in the Equality Act 2010. The proposals included requirements on local licensing authorities to:

- a. Conduct an accessibility review at three year intervals;
- b. Review taxi rank design to ensure compliance with the Equality Act 2010; and

- c. Provide information about the licensing authority and local operators in alternative formats, as well as information about the types of vehicle available in their area.

48. It was proposed also that the Secretary of State for Transport should have the power to impose accessibility requirements on large operator/dispatchers. In particular, the power should permit the setting of quotas of accessible vehicles which must be available to such dispatchers.

49. In Wales, licensing authorities are subject to the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011, which impose requirements on public authorities in Wales designed to assist them to comply with the general public sector equality duty introduced by s149 of the 2010 Act. If local licensing authorities are given the flexibility to add local conditions or requirements on licence holders in their areas, then taken together with the public sector equality duty and associated Regulations, the objectives of these recommendations can arguably be achieved under existing arrangements.

**Question 10: Do you consider that equality requirements proposed by the Law Commission can be met under the requirements imposed by the general public sector equality duty (s149) and the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011?**

## Recommendation 80

50. The Law Commission recommended that the first stage in the appeal process in relation to refusals, suspensions or revocations of licences should be the right of an applicant or current licence holder to require licensing authorities to reconsider the original decision. The Law Commission recommended also that appellants should have the right to bypass this stage and proceed direct to magistrates' courts.
51. The Welsh Government agrees that the first stage of an appeal process should be the right of an applicant or a licence holder to seek a review of the initial decision by a person independent of the initial decision, so as to ensure that any review undertaken is impartial if not fully independent. If the appellants remain dissatisfied with the outcome on an appeal, which must be dealt with within a reasonable timeframe, then the right to proceed to the magistrates' courts will become available.
52. We believe however, that appellants should allow a review of the decision to take place before appeals are lodged with magistrates' courts. This has the virtue of allowing remedies to be made without referring the matter to the courts and can reduce the number of cases that may otherwise be considered by magistrates.

**Question 11: 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?**



**SUMMARY OF QUESTIONS**

**Question 1:** Should the two tier system be retained in Wales or should a single tier model be developed for the taxi and private hire vehicle sector in Wales?

**Question 2:** 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; or
  
- c. Not to require taxi drivers to maintain records

**Question 3:** Should the arrangements for licensing taxis in Wales require all persons handling personal information to be licensed or not?

**Question 4:** Should a person taking a booking for a private hire vehicle be licenced?

**Question 5:** Should the “fit and proper persons” test for the application and issue of licences be retained in Wales?

**Question 6:** 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?

**Question 7:** 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?

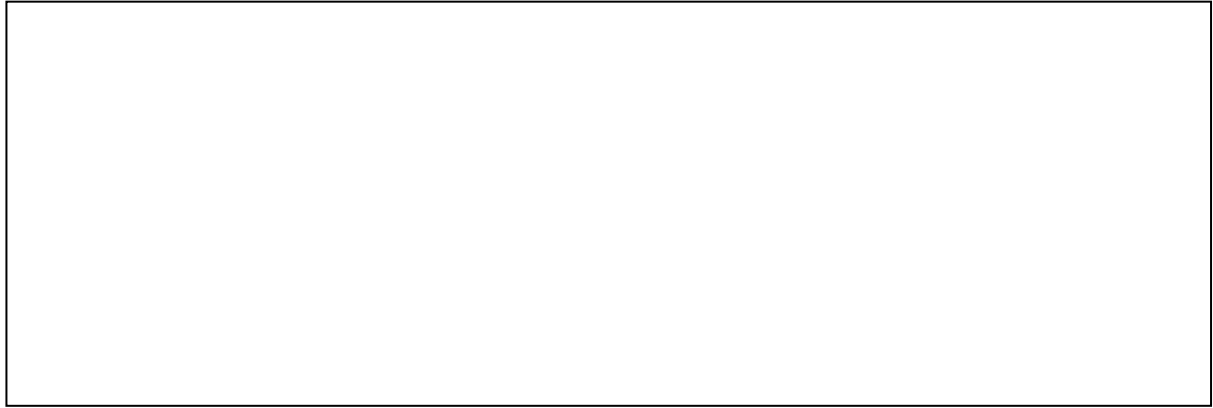
**Question 8: Do you agree that:**

- 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.

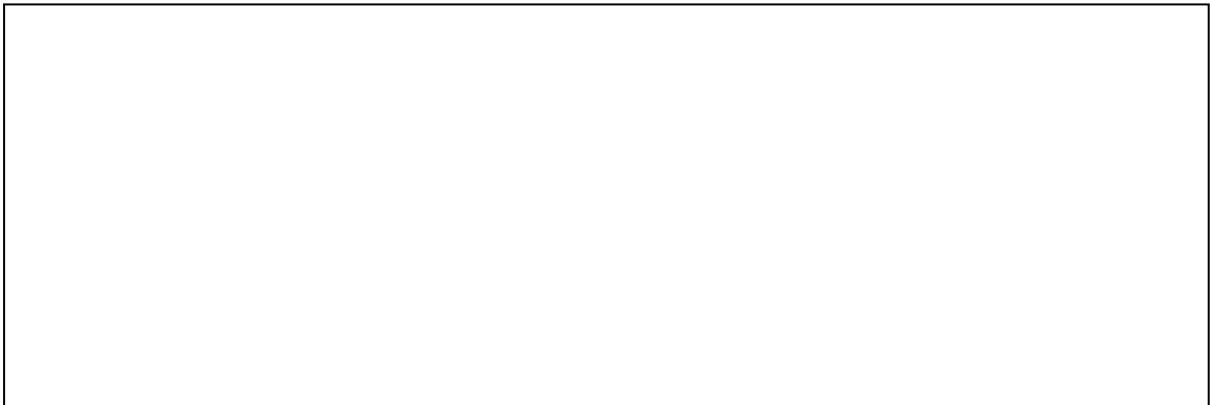
**Question 9:** If required, should the Welsh Ministers have the power to make a scheme that:

- 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.

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**Question 10:** 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?

A large, empty rectangular box with a thin black border, likely intended for a response or comment.

**Question 11:** 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?

**Your name/organisation and postal/email address**

**Please tell us which group you are responding on behalf of? (tick one)**

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)			

### **Response from City and County of Swansea to Welsh Government Consultation – Taxi and Private Hire Vehicle Licensing in Wales**

#### **Question 1: Should the two tier system be retained in Wales or should a single tier model be developed for the taxi and private hire vehicle sector in Wales?**

The Council believes that the preferred model of choice would undoubtedly be a single tier system, based on the fact that both from the Council's perspective and that of the general public, it makes no difference whether a vehicle is booked via telephone, internet, Smart phone 'App', hailed in the street or the vehicle is waiting at a taxi rank, as essentially what we have is a vehicle that conveys passengers from one place to another.

The Council appreciates however that careful consideration will need to be given to this issue because existing legislation already in place provides for a two tier system and has been in place for a considerable period of time.

New primary legislation, designed to replace the existing legislative structure which is no longer fit for purpose, will provide an ideal opportunity to put in place a system which is fit for purpose. If a single tier system was to be introduced there would need to be a number of considerations due to the implications of such a change. One implication of a single tier system would be the issue of rank space, particularly within Swansea's already congested city centre. The Council do appreciate however, that the way in which customers book taxis is changing and with the ever increasing move to electronic booking systems, taxis would not necessarily be required to be positioned in the City centre. Alternatively, ideas such as "holding areas" located outside of the city centre may be created for taxis to wait until a booking comes through. These areas could be created specifically for taxis and going forward could include electric charging points to accommodate the inevitable move to electric vehicles. Having such infrastructure in place, could also encourage taxis to embrace electric vehicles.

The benefits of a single tier system are that 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 a private hire vehicles plying for hire.
- 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 set by the council).
- Allow for Fares 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).

**Question 2: 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; or**

**c. Not to require taxi drivers to maintain records**

The Council believes that ideally records should be kept for every journey undertaken however there are obvious practical difficulties with taking this approach. Attempting to obtain a passengers name and address at the end of an evening 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, assisting enormously with enforcement. But these records could be easily manipulated and as such may not have much worth.

A better option would be to use the advances in technology to capture the information necessary to ensure as far as possible the safety of the travelling public. The use of CCTV, trackers and GPS systems would not only provide a more robust system for record keeping, but would also not place an administrative burden on taxi drivers.

Without a technological answer, the only real option would be to require records to be kept for pre-booked work only.

**Question 3: Should the arrangements for licensing taxis in Wales require any persons handling personal information to be licenced or not?**

The Council believes that anyone taking or holding an individual’s personal information should-be vetted to ensure that that person is safe and suitable (“fit and



proper”) for the role. 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.

**Question 4: Should a person taking a booking for a private hire vehicle require to be licenced?**

The Council believes that anyone taking or holding an individual’s personal information should be vetted to ensure that that person is safe and suitable (“fit and proper”) for the role. 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.

**Question 5: Should the “fit and proper persons” test for the application and issue of licences be retained in Wales?**

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

**Question 6: 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?**

The Council believes that Local Authorities should be able to impose additional conditions. Drivers who have certain medical conditions for example may require additional conditions to ensure that they remain safe to drive. Another example would be disciplinary requirements, where the Local Authority as a result of a complaint / conviction, may wish to attach a condition to a driver’s licence for them to attend a specific local course.

**Question 7: 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?**

The Council is already experienced in setting fees locally on a cost recovery basis and believes that the fee setting power included in any new legislation, should allow the Local Authority to recover all costs associated with the administration and enforcement of the regime.

**Question 8: 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 are required to consult that information prior to any application for a licence being granted.**

The Council does not recognise the benefit in publishing information about licence holders. A national database maintained and accessed by Licensing Authorities would be an excellent tool to prevent unsuitable drivers from obtaining or retaining licences.

The Council believes that information should be shared between licensing authorities and legislation setting out a prescribed process for sharing information would be beneficial.

**Question 9: If required, should the Welsh Ministers have the power to make a scheme that:**

**a. Allows taxi licences to be traded between licence and prospective 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.**

The Council already has 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.

**Question 10: Do you consider that equality requirements proposed by the Law Commission can be met under the requirements imposed by the general public sector equality duty (s149) and the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011?**

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

**Question 11: 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?**

The Council does not believe that there would be any benefit in having another Councillor or Officer reviewing a decision that was already determined by a Committee consisting of between 3 and 15 Councillors. This proposal would not, in our view, be sufficiently independent and would be perceived as a decision taken by the Council 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.

# Agenda Item 6

**REPORT OF THE DIVISIONAL OFFICER**  
**LICENSING, FOOD & SAFETY**  
**TO THE GENERAL LICENSING COMMITTEE**  
**8th SEPTEMBER 2017**

**PROPOSAL TO AMEND RESTRICTED PRIVATE HIRE VEHICLE**  
**CONDITION 23**

**1.0 Purpose of Report**

- 1.1 To ask Members to consider amending the existing condition which stipulates where the licence must be displayed on the vehicle.

**2.0 Current condition**

- 2.1 Currently, restricted private hire vehicle condition 23 states:

“The restricted licence issued by the Council must be displayed in the front windscreen of the vehicle on the nearside. It must be clearly visible at all times. The vehicle licence must be returned to the Council on expiry.”

- 2.2 The current window licence is credit card size and shows the vehicle licence number, expiry date of the licence, registration mark of the vehicle licensed and maximum number of persons the vehicle is permitted to carry. It is small and not easily visible.

**3.0 Background**

- 3.1 Recently, concern regarding the ability to easily identify these vehicles has been raised by officers responsible for school transport and other agencies.
- 3.2 Restricted Private Hire Vehicles are restricted to providing services for school transport, airport travel and executive travel only and may be any colour. This is in contrast to hackney carriage and private hire vehicles used for general hire which are subject to a strict colour policy to assist the public in easily identifying a licensed vehicle.
- 3.3 Concern has been raised that the restricted private hire vehicles are difficult to identify as licensed vehicles as unlike hackney carriage and private hire vehicles, they are not required to display door signs and a licence plate on the rear of the vehicle.
- 3.4 In view of the signage required for restricted private hire vehicles, in practice these vehicles cannot be easily distinguished from private vehicles that are not licensed. This is now causing concern and reports have been received that unlicensed vehicles, arranged privately by

parents and not provided by this authority, are being used to transport children to and from school.

4.0 **Proposals**

- 4.1 To address these concerns it is now proposed that restricted private hire vehicles are required to display door stickers and a plate on the rear of the vehicle in line with the current requirements for hackney carriage and private hire vehicles used for general hire and existing condition 23 of the restricted private hire vehicle conditions is amended to state the following:

*“Vehicle plates and stickers must be securely fixed to the vehicle. The vehicle plate is to be fixed on the bumper bar or boot lid/rear door between centre line and the offside of the vehicle. Stickers must be affixed to the front near and offside doors of the vehicle. The plate and stickers must be kept clearly visible at all times. The vehicle plate must be returned to the Council on expiry of the licence.”*

5.0 **Recommendations**

- 5.1 It is recommended that Members amend restricted private hire vehicle condition 23 to state the following:

***“Vehicle plates and stickers must be securely fixed to the vehicle. The vehicle plate is to be fixed on the bumper bar or boot lid/rear door between centre line and the offside of the vehicle. Stickers must be affixed to the front near and offside doors of the vehicle. The plate and stickers must be kept clearly visible at all times. The vehicle plate must be returned to the Council on expiry of the licence.”***

**The Licensing Committee’s instructions are requested.**

**Background Papers:       None**  
**Contact Officer:         Yvonne Lewis**  
**Extension:                 5600**  
**Legal Contact:            Aled Gruffydd**

# Agenda Item 7

## Report of the Head of Legal, Democratic Services & Business Intelligence

### General Licensing Committee – 8 September 2017

#### EXCLUSION OF THE PUBLIC

<b>Purpose:</b>	To consider whether the Public should be excluded from the following items of business.	
<b>Policy Framework:</b>	None.	
<b>Reason for Decision:</b>	To comply with legislation.	
<b>Consultation:</b>	Legal.	
<b>Recommendation(s):</b>	It is recommended that:	
<b>1)</b>	The public be excluded from the meeting during consideration of the following item(s) of business on the grounds that it / they involve(s) the likely disclosure of exempt information as set out in the Paragraphs listed below of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007 subject to the Public Interest Test (where appropriate) being applied.	
	<b>Item No.</b>	<b>Relevant Paragraphs in Schedule 12A</b>
	8, 9, 10 & 11	12, 13 & 18
<b>Report Author:</b>	Democratic Services	
<b>Finance Officer:</b>	Not Applicable	
<b>Legal Officer:</b>	Tracey Meredith – Head of Legal, Democratic Services & Business Intelligence (Monitoring Officer)	

#### 1. Introduction

- 1.1 Section 100A (4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, allows a Principal Council to pass a resolution excluding the public from a meeting during an item of business.
- 1.2 Such a resolution is dependant on whether it is likely, in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present during that item there would be disclosure to them of exempt information, as defined in section 100I of the Local Government Act 1972.

#### 2. Exclusion of the Public / Public Interest Test

- 2.1 In order to comply with the above mentioned legislation, Cabinet will be requested to exclude the public from the meeting during consideration of the item(s) of business identified in the recommendation(s) to the report on the grounds that it / they involve(s) the likely disclosure of exempt information as set out in the Exclusion Paragraphs of Schedule 12A of the Local Government

Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007.

- 2.2 Information which falls within paragraphs 12 to 15, 17 and 18 of Schedule 12A of the Local Government Act 1972 as amended is exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 2.3 The specific Exclusion Paragraphs and the Public Interest Tests to be applied are listed in **Appendix A**.
- 2.4 Where paragraph 16 of the Schedule 12A applies there is no public interest test. Councillors are able to consider whether they wish to waive their legal privilege in the information, however, given that this may place the Council in a position of risk, it is not something that should be done as a matter of routine.

### **3. Financial Implications**

- 3.1 There are no financial implications associated with this report.

### **4. Legal Implications**

- 4.1 The legislative provisions are set out in the report.
- 4.2 Councillors must consider with regard to each item of business set out in paragraph 2 of this report the following matters:
  - 4.2.1 Whether in relation to that item of business the information is capable of being exempt information, because it falls into one of the paragraphs set out in Schedule 12A of the Local Government Act 1972 as amended and reproduced in Appendix A to this report.
  - 4.2.2 If the information does fall within one or more of paragraphs 12 to 15, 17 and 18 of Schedule 12A of the Local Government Act 1972 as amended, the public interest test as set out in paragraph 2.2 of this report.
  - 4.2.3 If the information falls within paragraph 16 of Schedule 12A of the Local Government Act 1972 in considering whether to exclude the public members are not required to apply the public interest test but must consider whether they wish to waive their privilege in relation to that item for any reason.

**Background Papers:** None.

**Appendices:** Appendix A – Public Interest Test.

## Public Interest Test

No.	Relevant Paragraphs in Schedule 12A
<b>12</b>	<b>Information relating to a particular individual.</b>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 12 should apply. Their view on the public interest test was that to make this information public would disclose personal data relating to an individual in contravention of the principles of the Data Protection Act. Because of this and since there did not appear to be an overwhelming public interest in requiring the disclosure of personal data they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
<b>13</b>	<b>Information which is likely to reveal the identity of an individual.</b>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 13 should apply. Their view on the public interest test was that the individual involved was entitled to privacy and that there was no overriding public interest which required the disclosure of the individual's identity. On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
<b>14</b>	<b>Information relating to the financial or business affairs of any particular person (including the authority holding that information).</b>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 14 should apply. Their view on the public interest test was that:</p> <p><b>a)</b> Whilst they were mindful of the need to ensure the transparency and accountability of public authority for decisions taken by them in relation to the spending of public money, the right of a third party to the privacy of their financial / business affairs outweighed the need for that information to be made public; or</p> <p><b>b)</b> Disclosure of the information would give an unfair advantage to tenderers for commercial contracts.</p> <p>This information is not affected by any other statutory provision which requires the information to be publicly registered.</p> <p>On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>



No.	Relevant Paragraphs in Schedule 12A
15	<p><b>Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</b></p>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 15 should apply. Their view on the public interest test was that whilst they are mindful of the need to ensure that transparency and accountability of public authority for decisions taken by them they were satisfied that in this case disclosure of the information would prejudice the discussion in relation to labour relations to the disadvantage of the authority and inhabitants of its area. On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
16	<p><b>Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</b></p>
	<p>No public interest test.</p>
17	<p><b>Information which reveals that the authority proposes:</b>  <b>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</b>  <b>(b) To make an order or direction under any enactment.</b></p>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 17 should apply. Their view on the public interest test was that the authority's statutory powers could be rendered ineffective or less effective were there to be advanced knowledge of its intention/the proper exercise of the Council's statutory power could be prejudiced by the public discussion or speculation on the matter to the detriment of the authority and the inhabitants of its area. On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
18	<p><b>Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</b></p>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 18 should apply. Their view on the public interest test was that the authority's statutory powers could be rendered ineffective or less effective were there to be advanced knowledge of its intention/the proper exercise of the Council's statutory power could be prejudiced by public discussion or speculation on the matter to the detriment of the authority and the inhabitants of its area. On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>

# Agenda Item 8

By virtue of paragraph(s) 12, 13, 18 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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By virtue of paragraph(s) 12, 13, 18 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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By virtue of paragraph(s) 12, 13, 18 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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# Agenda Item 9

By virtue of paragraph(s) 12, 13, 18 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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By virtue of paragraph(s) 12, 13, 18 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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of the Local Government Act 1972  
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of the Local Government Act 1972  
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