

## **LICENSING COMMITTEE**

**Date: 24 January 2019**

### **TAXI CONSULTATION UPDATE**

*Report Submitted by: Rachel Jowitt, Chief Officer Neighbourhoods, Planning and Public Protection*

*Report Written by: Alison Hughes, Licencing Manager, Planning and Public Protection Service*

#### **1. Area Affected**

1.1 All areas of the County Borough

#### **2. Purpose of Report**

2.1 To inform members of a consultation taking place in Wales in respect of public transport, including taxis, and to seek the opinion of Members on whether they wish to make a consultation response

This is part of a wider response by this authority in respect of this consultation, and any response can be made as part of or separately to the response in respect of local bus services. A response on behalf of all 22 Welsh Authorities in respect of taxi matters is also being drafted by the All-Wales Licensing Expert Panel for submission by that group and for use by individual authorities as appropriate.

#### **3. Recommendation(s)**

3.1 Members are asked to consider whether

1 They wish to make a response in respect of the Welsh Government consultation on public transport and, if so, whether they prefer to

- a. Formulate a response as a whole committee
- b. Establish a working group to formulate a response
- c. Ask Officers to formulate a response for approval by Members

2 They do not wish to make a response in respect of this consultation

#### **4. Background**

- 4.1 The Licensing Committee heard, in March 2018, that Taxi licensing has been devolved to the Welsh Government and, given the outdated legislation and the new challenges facing the taxi industry, had been identified as a priority for legislative review.

#### **5. Issues and Findings**

- 5.1 A consultation on the future of Public Transport in Wales has now been launched by the Welsh Government, which is attached as Appendix 1 and can be found at <https://beta.gov.wales/improving-public-transport>

- 5.2 This consultation, “Improving public transport”, is a Welsh Government White Paper on proposals to legislate for reforming the planning and delivery of local bus services and licensing of taxis and private hire vehicles. It was issued on the 10 December 2018, and any responses must be submitted by 27 March 2019.

- 5.3 The stated intention of the proposals is to improve the legislative framework to:

1. Provide the flexibility to better respond to local public transport needs; and
2. Ensure consistency and coordination of bus services delivery and a more modern approach to taxi/PHV licencing.

- 5.4 The consultation document identifies a mismatch between the legislation and modern practice, which is evident in the following problems:

1. Inconsistent standards – where local authorities have different licencing standards resulting in different costs for operators and variable safety and quality standards for passengers;
2. Enforcement – there is no statutory mechanism for enforcement against vehicles licensed in a different local authority area from where an infringement has occurred; and
3. Safeguarding – the ability to obtain a licence in one authority and work in another presents a risk when local authorities do not have the means to share safeguarding information.

5.5 The proposals by the Welsh Government are as follows

1. National standards for taxi and private hire vehicle licensing
2. Allow a licensing authority to take enforcement action against any vehicle operating in its area.
3. The creation of a mechanism by which relevant information can be shared, for the purposes of safeguarding.
4. All of the existing taxi and PHV licensing functions to be taken away from local authorities and into a national licensing authority, a JTA.

## **6 National standards for taxi and private hire vehicle licensing**

6.1 The consultation report recognises that the 22 Welsh Authorities have 22 separate licensing policies, with differing standards across Wales.

6.2 Whilst it is accepted that this is the case, Members may wish to consider that

- 1 Each policy has been adopted in full consultation with customers, local residents and the trade and is accordingly designed to meet local needs,
- 2 Mechanisms already exist to co-ordinate between local authorities, ensuring that benchmarking and standardisation occurs where appropriate
- 3 A significant concern by the Welsh Government around the way in which the fitness of applicants is determined is already in the process of being resolved with all 22 Welsh Authorities in the process of adopting Institute of Licensing guidance, demonstrating the effectiveness of existing processes in standardising standards.

6.3 When considering national standards, points to note could include

- 1 The communities served by the taxi trade differ widely, covering both large cities and very rural areas. These communities may have different needs, for example
  - a. In cities, the taxi trade may be focussed on tourism and the night-time economy, with buses providing a comprehensive service for many transport users during the day
  - b. In rural areas, where bus services may be infrequent, the taxi trade will be more focussed on community needs with little or no night-time economy or

tourism.

- 2 The economic picture varies greatly across Wales, with a vibrant taxi trade in some areas but reporting difficulties in continuing to offer services in poorer communities.
- 3 The nature of the taxi trade delivering services to these different communities is not uniform. Some areas have a high proportion of taxi services delivered by large Private Hire companies, whilst others are dominated by single proprietors that own and drive their own vehicles

6.4 The impact of a single standard could, potentially, damage the taxi trade and the service offered to customers, in that

- 1 The adoption of a basic national standard could effectively decrease standards in some areas of Wales that currently meet a higher standard
- 2 The adoption of a higher standard could affect the ability of the taxi trade to continue to offer a service, particularly in poorer communities with limited opportunities to charge higher fares to recoup costs

6.5 Local Authorities currently work together to share best practice and benchmark services. This Authority currently does this via

- 1 The Gwent Licensing forum, which discusses local issues and how to address these
- 2 The all-Wales Licensing Expert Panel, which considers policy issues and meets with other national trade and enforcement organisation, including the Welsh Government
- 3 The Institute of Licensing, which provides training and guidance for officers as well as a forum for discussions, and also issues national guidance for adoption by local authorities as appropriate.

6.6 A previous Welsh Government consultation on taxi legislation raised the possibility of national statutory minimum standards, with the option for the local adoption of higher standards where appropriate.

6.7 In considering this consultation, Members may wish to consider whether a single standard across Wales

- 1 Would be potentially beneficial or detrimental in improving standards

- 2 Would be potentially beneficial or detrimental in meeting local needs
- 3 Could be achieved in another way

6.8 The consultation seeks responses to the following questions in relation to the development of national standards,

Q22. Do you agree with our proposal to introduce national standards which will apply to all taxis and PHVs in Wales? Yes/No? Please explain your answer.

Q23. Are there any matters which you would like to see contained in any national standards?

Q24. Are there any matters which you think should be excluded from any national standards?

Q25. What practical obstacles might there be to setting common national standards for both taxis and PHVs?

Q26. What would be the best approach for determining the content of national standards?

Q27. Please provide any other comments or proposals around national standards that were not covered in the above questions.

## **7 Enforcement powers for local authorities**

7.1 The law currently only permits local authorities to suspend, revoke or refuse to renew a licence that they have issued. Licensing officers cannot therefore undertake enforcement against vehicles, drivers or operators licensed in another area.

7.2 The Welsh Government are now proposing to allow Local Authorities to suspend or revoke licences issued by other local authorities where the licensed person or vehicle is trading in their area.

7.3 Points to consider are that, at present

- 1 Local Authority officers do not have legal powers to stop vehicles operating in their area but which are licensed elsewhere, and the consultation does not specify if this will change. Local Authority Officers may not therefore be able to obtain the evidence needed to revoke a licence.

- 2 Many local authorities carry out joint enforcement with the Police, who have the power to stop and examine vehicles. Where there are clear vehicle defects, the

Police have appropriate enforcement powers, and any enforcement action would be reported to the licensing authority

- 3 Local authorities currently work together in respect of cross border issues, with officers giving evidence as needed to support enforcement action by the licensing authority.
- 4 Local authorities may not hold all of the information needed to review a licence. For example, they may wish to take action in respect of a vehicle operating in their area, but that vehicle could be owned, licensed, operated and driven by different people.
- 5 The licensing authority will have information regarding the history of any licence holder, which may affect the outcome of any enforcement decision. A local authority may be willing and able to take action in respect of a single serious contravention, but only the licensing authority would be in a position to act where a taxi driver or operator commits numerous minor offences across a wide geographical area.

- 7.4 Local Authorities can currently request another licensing authority to take action in respect of an issue that is occurring in their area, but there is no requirement for the licensing authority to take action.

This differs from other areas of licensing legislation where, for example, a responsible authority or other affected person can require a review of a licence. A change of legislation whereby a local authority in whose area a contravention occurs can request/require a review of a licence by the licensing authority would negate the need for that authority to carry out the review of the licence themselves.

- 7.5 Local Authority Officers currently work together across all licensing functions, and local co-ordination groups allow officers to discuss issues and concerns between themselves and with other enforcement bodies.

This Authority has not experienced issues where another authority has not taken action on evidence presented to them, or officers of another authority have failed to support enforcement action taken by this Authority.

- 7.6 The consultation mentions that other enforcement powers are under consideration, but does not specify what these new powers might be.

- 7.7 At present, the review of a licence or prosecution are the only enforcement powers available to a local authority. Some authorities have a penalty point system in place, but this is an informal process that feeds into licence reviews and prosecutions as required.

7.8 Other enforcement regimes offer a wider range of enforcement options, which can help resolve contraventions and bring about improvements without the need for a licence review or prosecution. These enforcement options could include, for example,

- Fixed Penalty Notices (usually used for more minor offences)
- Improvement Notices (which require specified actions to be taken)
- Prohibition Notices (which prohibit specified actions)

7.9 A wider range of enforcement remedies would

- 1 Benefit the taxi trade, by allowing enforcement action other than a licence review that risks their licence and livelihood,
- 2 Protect public safety by allowing prompter action in respect of contraventions
- 3 Be more efficient and effective for local authorities by reducing costly licence reviews
- 4 Be useful in supporting licence reviews and prosecutions, in that they can show that a licence holder has been given an opportunity to remedy a contravention but has failed to do so.

7.10 In considering this consultation, Members may wish to consider whether the proposed enforcement powers

- 1 Would be potentially beneficial or detrimental in improving standards
- 2 Would be potentially beneficial or detrimental in meeting local needs
- 3 Could be achieved in another way

7.11 The consultation seeks responses to the following questions in relation to the development of enforcement powers,

Q28. Should a local authority be able to revoke or suspend a licence relating to any vehicle operating in its area, even if it did not issue the original licence? Yes/No? Please explain your answer.

Q29. Should a local authority be able to issue a lesser sanction in relation to any vehicle operating in its area, even if it did not issue the original licence? Yes/No? Please explain your answer.

Q30. Please provide any other comments or proposals around enforcement that were not covered in the above questions.

## **8 The creation of a mechanism by which safeguarding information can be shared**

- 8.1 The consultation highlights that there is currently no legal requirement for local authorities to share information with one another which might assist them in their decision-making. For example, if a driver is refused a licence or has his licence suspended or revoked by one local authority, it can be difficult for other local authorities to obtain that information.
- 8.2 The proposal is to create a duty on the Welsh Ministers to create a database, or make other information-sharing arrangements, to ensure that relevant information can be shared for the purposes of safeguarding
- 8.3 The Local Government Association (LGA) has commissioned the development of a national register of hackney carriage and PHV driver licence refusals and revocations, the 'National Register of Refusals and Revocations' or NR3. The new register will allow licensing authorities to record details of where a hackney carriage or PHV drivers' licence has been refused or revoked, and allow licensing authorities to check new applicants against the register. Details of this register are attached as Appendix 2.
- 8.4 It has been agreed at the all-Wales Licensing Expert Panel that all 22 Welsh Authorities should submit information to this register, and this Authority is actively looking to do so.
- 8.5 The all-Wales Licensing Expert Panel met with the organisation delivering this register in December 2018, to discuss the practicalities of how this will work and which information should be submitted by local authorities.
- 8.6 Any process adopted in Wales will duplicate this UK wide register and, more importantly, would not include details of refusals and revocations by English Authorities. This raises a concern that drivers refused by an English Authority could instead apply to a Welsh Authority.

Members will be aware that this authority has previously had a number of drivers from the Bristol and other areas, and a few remain licenced with the authority.

- 8.7 In considering this consultation, Members may wish to consider whether the register
- 1 Would be potentially beneficial or detrimental in improving standards
  - 2 Would be potentially beneficial or detrimental in meeting local needs
  - 3 Could be achieved in another way

8.8 The consultation seeks responses to the following questions in relation to the development of information sharing,

Q31. Do you agree with our proposal to create a database or make other arrangements for relevant safeguarding information to be shared? Yes/No? Please explain your answer.

Q32. Please provide any other comments or proposals around information-sharing that were not covered in the above questions.

## **9 The Creation of a Joint Transport Authority to cover Taxi Licensing matters**

9.1 The Consultation puts forward the view of the Welsh Government that the best way of underpinning improvement in all three areas of improvement in respect of the taxi trade is to centralise the taxi licensing regime.

9.2 The proposal is that the existing taxi and PHV licensing functions of the twenty two Welsh local authorities should be redirected to a single national licensing authority – a national joint transport authority (JTA),

The purpose of the JTA in relation to taxis and PHVs would be to create a standardised licensing area encompassing all of Wales, and to streamline enforcement and information-sharing.

9.3 Few details are given within the consultation on how such a JTA would work in practice, and a recent meeting between Welsh Government officials and local authority officers established that this has not been considered in detail.

9.4 The Welsh Government is also considering the implementation of these proposals without using a JTA as the delivery vehicle. This would involve creating national standards that the local authorities must follow; extend the existing enforcement powers of local authorities; and creating a mechanism by which local authorities can share relevant information.

9.5 Moving the taxi licensing functions to a JTA would offer advantages and disadvantages to taxi users, the taxi trade and Local Authorities.

9.6 For taxi users, some of the advantages and disadvantages could include that

1 A single licensing system would allow customers to book any taxi they choose, and would encourage larger App based companies that would make this easier. However, customers are currently free to book a taxi from any area under the existing system, although non-local companies would be less likely to provide a

cost-effective service.

- 2 National standards would mean that taxi users across Wales would know what to expect, and a national livery would allow them to identify taxis wherever they are travelling. For some taxi users, however, those standards might be lower than is currently the case. Furthermore, most taxi journeys are local, and national standards will therefore have less of an impact.
- 3 A single licensing authority could encourage bigger companies, who can offer a more varied and resilient service to customers across Wales as well as App based booking systems. However, there would then be a corresponding loss of competition. Furthermore, whilst App based companies such as Uber may be advantageous to younger age-groups, mobile phone ownership and usage will be lower for older and more vulnerable groups and they may therefore be less well placed to use this form of booking. Any loss of local phone based companies could particularly impact more vulnerable customers.
- 4 There would be one point of contact for enforcement if customers have a complaint, wherever their journey took place. However, this would be a national number, rather than their own local authority.
- 5 A national enforcement team may not have the depth of local knowledge regarding issues such as non-compliant drivers or unlicensed vehicles, presenting a potential danger to users.

9.7 For the taxi trade, there would be a number of advantages and disadvantages including, for example

- 1 Taxi companies would only need one set of licences in order to trade across Wales, rather than be licenced by each local authority. However, both Hackney Carriages and Private Hire vehicles can already take cross border bookings if they wish, and Hackney Carriages can operate as Private Hire vehicles in other areas. Furthermore, taxi companies and drivers can apply for contact work regardless of the geographical area.
- 2 A single all-Wales licence regime would particularly benefit larger companies wishing to trade across borders, such as Uber and other App based booking services. However, this would lead to increased competition for smaller companies and individuals.
- 3 A single standard would mean that the trade can more clearly understand what is required of them, and would offer a level playing field in terms of competitive costs.

- 4 Compliance costs could increase for some of the trade as standards are unified, whilst falling for others operating in higher standard areas at present.
- 5 The cost of licensing could be reduced, with underlying costs such as policy development shared across many more licence holders, although national standards and shared best practice could also deliver some of these cost savings.
- 6 A single JTA may mean that the taxi trade are expected to make applications etc. on-line or through the post. Some of the trade would struggle with this, and they could lose the support that local authorities currently offer.
- 7 Access to advice for the trade could reduce, particularly locally based advice.

9.8 For Local Authorities, some of the advantages and disadvantages could include:-

- 1 Not all costs of the taxi licensing function are recoverable through fees, particularly in respect of unlicensed taxis and FOIs, and there could therefore be a small cost saving. However, many underpinning costs are shared across all licensing functions, and these would therefore fall on a smaller number of licenses should the taxi licensing function be lost. Some fees could rise to meet these costs but, for statutory fees, a significant proportion of this cost would not be recoverable by the Authority.
- 2 The loss of the taxi licensing function and fees would necessitate a loss of staff, some or all of whom may be subsumed into the new JTA. However, locally based staff may not be willing or able to work with an organisation based some distance away, and responsibility for redundancy and other costs have not yet been established
- 3 The loss of staff will have major implications in terms of service resilience for other licensing functions, particularly in a small authority such as Torfaen, with working patterns, leave and sickness potentially leading to a loss of service at certain times. This could be resolved by absorbing the licensing functions into another team or the development of a cross border licensing team, which could in turn offer further cost savings, but these options would need to be developed further.

9.9 Current legislation and case law makes it clear that public safety is the only proper consideration for Licensing Authorities, and that economic issues such as the ability of a taxi driver to make a living should not form part of any decision process.

The consultation outlines how public safety can be better protected, either by a JTA or by local authorities. However, the consultation also makes reference to the wider

economic aspects of the taxi trade, stating that the taxi industry is a vital component in the Welsh Government ambitions for public transport in Wales. This raises the issue of whether there is a potential conflict of interest in asking a JTA to perform both roles.

- 9.10 It is proposed that the new JTA will be responsible for both bus and taxi provision. However, the synergies between them are unclear. In particular
- 1 Unlike trains, buses make numerous stops and travellers are therefore less likely to combine bus and taxi travel other than for longer journeys.
  - 2 The most practicable mechanism for linking bus and taxi travel is at bus stations, but most bus journeys are made from and to intermediate stops. This Authority has not received requests for taxi ranks to be placed nearer bus stations or stops.
  - 3 Those wishing to continue a bus journey by taxi would currently contact a taxi company and make a booking to do so. For example, a person travelling to an airport via Megabus would need to contact a taxi company to get to the bus station, and would usually arrange a return booking at the same time in order to ensure availability and agree a price. It is unclear how a JTA can offer additional benefits.
  - 4 Local Authorities currently work with the taxi trade to provide taxi ranks at locations that are economically attractive to the trade and, unless funding is to be provided to support the taxi trade in less economically viable areas, it is unclear what advantages a JTA can offer.
- 9.11 Whilst a JTA can offer improved linkages between bus and taxi services, other partnerships and linkages could suffer in such an arrangement, including
- 1 Local authorities currently carry out joint enforcement with the Police and the VOSA to ensure the safety of the taxi trade, based on local intelligence, and these local links could be lost if enforcement responsibilities are centralised. Other national enforcement bodies, such as the Immigration Service and Gambling Commission, instead liaise with Local Authority Officers to ensure that expertise and local knowledge are both brought to bear as part of any enforcement action.
  - 2 Taxi ranks are currently located near to main shopping areas and places of entertainment, with taxi rank provision often being considered as part of larger planning applications for such facilities. Placing responsibility with a JTA could lessen the links with the planning and highway functions.
  - 3 There are close ties between the taxi licensing function and the transport service for vulnerable children and adults, ensuring that safeguarding is paramount for

these groups. Any move to a JTA could weaken these communications and working arrangements.

- 9.12 Joint working arrangements already exist across Wales, with national and regional working groups and the Institute of Licensing providing mechanisms that allows the sharing of knowledge and best practice. These groups cover a range of licensing topics, allowing taxi licensing to be considered within a wider legislative and enforcement framework. These mechanisms also allow for partnership working, and this has included working with Welsh Government Officers in respect of taxi licensing.

Moving responsibility for one area of licensing to a JTA would not negate the need for these groups to discuss other areas of licensing or noticeably reduce the costs of this collaborative work.

- 9.13 The development of a Joint Transport Authority with an overview of taxi matters does not preclude Local Authority delivery and enforcement of these functions.

For example, Defra recently worked with a Local Authority group, trade representatives and experts to deliver new licensing legislation, guidance and forms for delivery and enforcement by Local Authorities. A Joint Transport Authority could, in the same way, work with and support existing joint working arrangements in Wales to share knowledge and best practice, and to deliver standardisation and uniformity where appropriate

- 9.14 In considering this consultation, Members may wish to consider whether the proposed establishment of a JTA to include taxi licensing functions

- 1 Would be potentially beneficial or detrimental in improving standards
- 2 Would be potentially beneficial or detrimental in meeting local needs
- 3 Could be achieved in another way

- 9.15 The consultation seeks responses to the following questions in relation to the proposed taxi enforcement responsibilities,

Q33. Do you agree with our proposal to redirect all of the existing taxi and PHV licensing functions away from local authorities and into a national licensing authority (Option A)? Yes/No? Please explain your answer.

Q34. Do you think that local authorities should continue to have responsibility for taxi and PHV licensing (Option B)? Yes/No? Please explain your answer.

Q35. Please provide any other comments or proposals around responsibility for taxi/PHV licensing that were not covered in the above questions.

## 10 **General Matters**

- 10.1 The consultation gives two additional options, namely
- 1 To comment on how the consultation proposals impact on the Welsh Language, and
  - 2 To add any other comments as required

- 10.2 At present, each Local Authority is responsible for the development of application forms, guidance, licences and other documents, and the translation of these into Welsh. A Joint Transport Authority would minimise these costs.

Many legislative functions include standard forms that Local Authorities are obliged to use, and forms etc. have also been created via partnership working within Wales. Shared websites and other interfaces also exist. A JTA is not therefore the only mechanism whereby the Welsh Government can ensure that documents and guidance are available in the medium of Welsh.

- 10.3 The Department for Transport Working Group on Taxi and Private Hire Vehicle Licensing published their report in September 2018. This report, "Taxi and Private Hire Vehicle Licensing Steps towards a safer and more robust system" (Appendix 3), covers more ground in terms of the issues considered, and made a number of recommendations that are now being considered by the UK Government.
- 10.4 Taxi licensing legislative powers have been devolved in Wales, raising the possibility of different legislative frameworks and different standards between England and Wales. Whilst this allows for Welsh standards, priorities and working arrangements to be developed, it raises the possibility of different standards for taxis travelling between England and Wales, and some taxi businesses may seek to be licensed in the area most advantageous to them.

## 11 **Implications**

- 11.1 Budgetary implications – there are no budgetary implications in respect of the consultation response, but the outcome of that consultation could have a significant financial impact on the financing of the Licensing team.
- 11.2 Legal implications – there are no legal implications at this time
- 11.3 Resources – there are no resource implications at this time, but the consultation outcome could have a significant resource and resilience impact on the Licensing

team.

## **12 Risks**

12.1 There is little risk to the Authority in respect of this matter.

## **13. Action to be taken following decision**

13.1 The suggestions and directions of the committee will be followed by officers.

## **14 Monitoring and Evaluation**

14.1 The Licensing Team will continue to review the progress of this consultation and will update the Licensing Committee on developments.

## **15. Conclusion/summary**

15.1 A consultation on the future of Public Transport in Wales has now been launched by the Welsh Government. This consultation, "Improving public transport", is a Welsh Government White Paper on proposals to legislate for reforming the planning and delivery of local bus services and licensing of taxis and private hire vehicles. It was issued on the 10 December 2018, and any responses must be submitted by 27 March 2019.

The stated intention of the proposals is to improve the legislative framework to:

1. Provide the flexibility to better respond to local public transport needs; and
2. Ensure consistency and coordination of bus services delivery and a more modern approach to taxi/PHV licencing.

There is also a proposal for the development of a Joint Transport Authority, which could take responsibility from Local Authorities in respect of taxi licensing and enforcement.

## **16 Recommendation(s)**

16.1 Members are asked to consider whether

- 1 They wish to make a response in respect of the taxi elements of the Welsh Government consultation on public transport and, if so, whether they prefer to
  - a. Formulate a response as a whole committee
  - b. Establish a working group to formulate a response

c. Ask Officers to formulate a response for approval by Members

2 They do not wish to make a response in respect of this consultation

<b>Appendices</b>	<ol style="list-style-type: none"><li>1 Welsh Government consultation, "Improving public transport"</li><li>2 Guidance for Las adopting NR3</li><li>3 Taxi and PHV working group report</li></ol>
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<b>Background Papers</b>	None
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For a copy of the background papers or for further information about this report, please telephone: Alison Hughes, Team Leader Licensing. Tel: 01633 647286