



Department for Transport Consultation on Revised Taxi & Private Hire Vehicle Licensing Best Practice Guidance – July 09

Introduction

This submission is by Unite the Union. Unite is the UK's largest Trade Union with 2 million members across the private and public sectors. The union's members work in a range of industries including manufacturing, financial services, print, media, construction, local government, food, agriculture, education, health, not for profit and the transport sector.

Unite the Union's current membership in our Passenger Transport Trade Group, together with our membership in other trade groups, such as supervisory and administrative grades, and some maintenance engineering members, well exceeds 100,000. The Passenger Transport Trade Group represents workers in all areas of passenger services including bus, coach, tram, rails and of particular relevance to this guidance taxis.

Unite has 4,000 taxi driver members and is continuing to grow. Unite has obtained the views of our members through our lay member committees at national and regional level. Therefore Unite is in a unique position to submit a response to the Department for Transport (DfT) Consultation on Revised Taxi & Private Hire Vehicle Licensing Best Practice Guidance.

Consultation Questions

Q1. Have you found the Best Practice Guidance useful?

Unite the Union as it is now or the Transport and General Workers Union as it was when the union responded to this guidance in 2005. Unite still believes that Trade Unions should be involved with Local Authorities in developing the local transport plans for that area.

Unite believe that local transport plans should recognise the important role that taxis play in having a properly integrated public transport system. Local Taxi Boards are the best way of achieving this and should include the licensing authority, trade unions, the police and passenger representatives (including disability groups). Therefore Unite believes that Local Taxi Boards should be included in any statement of best practice taxi guidance.

Q2. Has your local authority, since publication of the Guidance in October 2006, undertaken a review of its taxi and PHV licensing policies?

From the members Unite spoke to and their respective local authorities the answer is no.

Q3. Can you offer any examples of instances where local policies have been amended to reflect the advice in the original Best Practice Guidance?

Duration of licenses options of 1-3 years

Our taxi members have told us that the flexibility that is on offer with regards to the duration of licenses options from 1-3 years is welcome and is being offered in the local areas they operate within. The choice is useful for taxi drivers for financial and planning reasons, in case of a change in work or life circumstance.

Q4. Do you consider that any issues in the original guidance where changes are not proposed should be revised?

Quantity Restrictions

Section 16 of the 1985 Transport Act allows the Council to restrict the number of taxis, but only if it is satisfied that there is no “significant unmet demand”. Case law directs that the measuring of supply and demand is by way of an independent survey. The currency and therefore the validity of any such survey has commonly been viewed as lasting between three and five years.

Unite are as opposed to the notion that the status quo should be preserved indefinitely and at all costs, as we are to the view that this vital part of the integrated transport system should be left to the whims of “market forces”.

There are numerous reasons why we believe market forces damage the taxi trade and discredit the licensing authority. These are never simple and, can vary from one area to another. Nevertheless, the fact that a number of licensing authorities having chosen to de-restrict and have subsequently re-restricted, supports the view that far from being the panacea for local supply difficulties, market forces often create different and far more damaging problems. It is difficult to obtain a comprehensive and up to date picture of such areas, but the following are examples of where de-restriction has not proved to be the answer:-

- Harlow – Before OFT report in Nov 2003 were restricted then de-restricted and have now re-restricted.
- Sheffield - Before OFT report in Nov 2003 were de-restricted and have now restricted.
- Birmingham – No plates for a year.
- Wirral – Gone from 80 to 350 cabs, which has caused a shortage on days. The competition to earn a living is so vast everyone is working nights to

make their money and are therefore are not available during the day. Where as Liverpool sees about 1,400 cabs and double the amount of drivers and through sharing provide a better day and night cover then just issuing more licenses.

- Salford – Unite’s membership have experienced problems with the council’s plans to increase the number of taxis without an independent survey to be carried out to enable us to judge the level of demand in the way that case law directs.

Unite would like to know - What councils de-restricted taxi numbers following the announcement of a Government Action Plan in June 2004 encouraging them to do so and which have now chosen to re-restrict taxi numbers since then? And why?

In affect Unite would like to see a detailed breakdown of all the councils/local authorities that were used to make Chart A5.6: Quantity restriction in England and Wales on page 79 of the OFT Taxi Market Study - Oct 07?

In summary we believe Local Taxi Boards made up of the licensing authority, trade unions, the police and passenger representatives (including disability groups) should be responsible for the monitoring of supply and demand with the remit of developing the trade in a progressive and managed way”.

Vehicle Testing

Given that there are three types of vehicle in use, purpose built taxis, modified vehicles and ordinary cars. Unite believe that there should be a test for a new vehicle followed by an annual test.

There should also be a compliance test to ensure vehicles meet minimum conditions for disabled access and interior of the vehicle. These standards should be set nationally to ensure consistency of application.

In regards to age limits Unite believe that 6 monthly checks should be brought in for non-purpose built taxis after 5 years and purpose built taxis after 10 years. Consistency of the applications of standards is more important than the number of testing centres in an area. Unites preferred outcome would be for all taxis and PHV to be tested at a VOSA test centre, this would ensure consistency of application.

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Taxi Zones

Unite would like to place on record that the union disagree with the abolition of taxi zones in general.

Taxi Fares

Although there may be a case for higher fares at times of peak demand, Unite believe that this would create confusion and the potential for customers being overcharged, it is better to leave this to the judgement of the local council.

However Unite takes issue with point 50 “There is a case for allowing any taxi operators who wish to do so to make it clear – perhaps by advertising on the vehicle – that they charge less than the maximum fare; publicity such as ‘5% below the metered fare’ might be an example”. Unite believes that fares are set at a level that is fair for the customer and at the same time provide drivers with enough to make a decent living. Unite would vigorously oppose any guidance that would encourage publicly advertising undercutting within the taxi industry.

Q5. Do you consider that there are issues which are not currently covered in the Guidance which could usefully be covered?

Cross Border Hiring of Private Hire Vehicles (PHV)

The serious problem of cross border hiring, sees private hire vehicles undertaking a fare to another borough and then not returning to the borough that they are licensed with and continuing to take fares in another borough.

Unite the Union has come across examples of this in Newcastle and more recently in Liverpool, which has seen private hire vehicles from neighbouring boroughs such as Sefton permanently basing themselves in Liverpool.

Not only does this effect the livelihoods of the legitimate taxi and private hire trade in Liverpool, but it also means that the burden of enforcement falls onto Liverpool licence payers and recently Liverpool taxi and private hire drivers have seen a rise in their licence fees while the main culprits Sefton, have experienced a corresponding decline in taxi and private hire fees.

Unite believes that a change in the legislation that would require a private hire vehicle that undertakes a fare to another borough to return to the borough that they are licensed with is needed. This is already the case in Scotland and for all hackney carriages taxis that are essentially required to return to their 'controlled area'.

The Local Government (Miscellaneous Provisions) Act 1976 never envisaged the above situation, and an amendment is long overdue.

In Scottish legislation section 21 (b) Civic Government Act (1982) it requires taxi and private hire vehicles to return to the licensing area when they have completed a hiring that terminates outside of the controlled area.

Unites legal opinion has indicated that it would be possible to incorporate the aforementioned section of the Scottish legislation without having to undergo wholesale changes to the 1976 Act.

Unite is looking to gather MP's support for this campaign to change the legislation.

Q6. Do you have any comments on the proposed guidance about accessibility (paras13-19)? *[Note, there is a separate consultation exercise about accessibility standards for taxis; this consultation asks about the advice we are currently offering to local authorities.]*

Unite responded to the DfT consultation on Improving Access to Taxis in April 09. The consultation is based on assumptions that all taxis (both hackney carriage and private hire vehicles) need to be fully accessible for disabled people (but particularly wheelchair accessible) in order to make sure taxis are in keeping with the Disability Discrimination Act 1995 in case of legal challenge.

Unite does not accept these assumptions for a number of reasons, which has led to many yet to be answered questions from our membership:-

Firstly if it has taken the Government 14 years to get to this point, if it was such a legally pressing issue then why has it taken so long?

Again if the potential legal repercussions are so imminent then why are proposals within the consultation for all licensed taxis to be fully compliant not due until 2025?

Why have trade unions and other representatives of the taxi industry not been consulted in producing this consultation, when obvious value could have been added?

The consultation says “around half of the licensed taxi fleet is currently classed as being wheelchair accessible”. This is better than trains and on a par with buses in percentage terms according to the consultation “over a third of all trains are now accessible and over half of the bus fleet.” There is also no actual mention of what percentage of coaches are wheelchair accessible, which looks unfortunately selective.

Unites policy is that national legislation should allow all licensing authorities to set up a Local Taxi Board, consisting of representatives from the local council/authority, the police and emergency services, the taxi industry, disabled groups, local transport planning committee and trade unions. They would take over the responsibility for the day to day operation of the licensing system.

Government and local authorities must take financial responsibility and must invest money so disabled access points for all modes of transport are made easier. From a taxi perspective ramps for wheelchair passengers should be put in at all key transport points such as airports, train and bus stations, ports, hospitals, doctors, shopping centres and places of entertainment or public interest, for example. Location of ranks, the provision of sheltered seating close to a rank, information provision, kerb heights and pavement widths are all in need of investment from the Government and local authorities. By simply installing some disabled ramp points at some major pick up and drop off points, then disabled access can be made a lot easier.

Surveys in the past by local councils like Halton Borough Council in Cheshire have found that a high proportion of disabled people prefer a mixed fleet because not all wheelchair passengers want to travel in their wheelchairs.

This would still seem to be the case in many other councils with only 64 out of 342 England/Wales local authorities (18.7%) have gone with a 100% wheelchair

accessible vehicle (WAV) policy. With the vast majority 278 councils some (81.3%) choosing not to and for good reason.

In the last 14 years many councils have gone along the fully wheelchair accessible (WAV) route in the mistaken belief that the Government was about to impose this on them. Often this has had disastrous consequences such as in South Staffordshire and Flint, which now have virtually no hackney carriage taxis left at all which has led to a reduced availability for not just disabled passengers but all passengers.

In addition there is an assumption that disabled people means wheelchair disabled, which in itself discriminates against all other forms of disability. Some commentators say that 0.4% of disabled people are in wheelchairs and 99% of others are not. Others say it might be higher but not significantly so, either way it brings into question whether a fully wheelchair accessible fleet of taxis is actually in the best interests of all disabled people.

The consultation seems to be suggesting that there is a standard that can be set for a one size fits all taxi that will cover all disabilities. Unite does not think this is the case. If you make all taxis wheelchair accessible, then how about the majority of other disabled people with different disabilities, will the taxi be suitable for them? There is no one definition of a disabled person. The needs of wheelchair using passengers are different from those of someone who cannot bend forward, or who can't get up the step that is usually required for the ramp to get a wheelchair user on. So clearly the one size fits all taxi vehicle, or standard is not a realistic deliverable option.

Unite believes that the current scenario policy option is more in keeping with Unites own policy which is for 100% (WAV) in major Metropolitan areas, this currently exists, and a mixed fleet in urban and rural areas. This concurs with the

ECMT (European Conference of Ministers of Transport, 2007, Improving access to taxis) report that supported this position.

The exact make up of the fleet in these areas should be left up to the local authority to decide, in consultation with the taxi trade, local disability groups and other local users, via the Local Taxi Boards. The Government actually acknowledge this route by suggesting the funding of demonstration schemes including carrying out local accessibility demand surveys to identify in greater detail the needs and requirements of local disabled people. The Government also state that local authorities have a key role to play in improving access, which in Unites opinion is what Local Taxi Boards already do. The role of local licensing officers is obviously critical in ensuring that they understand the needs of their local communities. The vital task of tailoring local demand by local authorities is repeated throughout the consultation document, but then the Government seemingly undermines this by insisting on every local authority having a fully (WAV) fleet of taxis. It should be for Local Taxi Boards to determine what the correct balance is.

Q7. Do you have any comments on the proposed guidance about the duty to carry assistance dogs (paras 20-21)?

Unite is supportive of the guidance under this question.

Q8. Do you have any comments on the proposed guidance about duties under the Part 3 of the Disability Discrimination Act 1995 (paras 22-25)?

In addition to the comments already made in response to Question 6 Unite would like to add:-

Unite feels that criminal punishment, with penalties and prosecution is not an appropriate way of improving assistance for disabled passengers. Unite believe

that a better way of tackling this is through education and training. Unite in partnership with GoSkills in the North West, Liverpool have skilled 1,000 plus drivers to NVQ standard in the last year alone. The Government make the point that with regard to speeding there are far fewer repeat offenders if drivers are sent on a speed awareness course rather than getting a fine. Unite believes that the Governments own evidence speaks for itself.

Unite propose that existing taxi drivers should be educated to NVQ level but with grandfather rights if they do not want to participate and that new taxi drivers should be educated to VRQ level to start with.

There are also taxi industry issues with regards to the health and safety of drivers whilst assisting disable people onto their taxis. Who is going to take responsibility if a driver suffers ill health or worse in the process?

Also local authorities are going to have to show some flexibility with regards to issuing parking tickets when taxi drivers are picking up and dropping off disabled passengers.

Q9. Do you have any comments on the inclusion of a reference to the national inspection standards drawn up by the Public Authority Transport Network (para 32)?

Unable to comment due to not being able to access the national inspection standards drawn up by the Public Authority Transport Network.

However in general the Freight Transport Association attempts to share information amongst local authorities across the taxi industry should not restrict Local Authorities from having the freedom to decide what is best for their area. Local Authorities should use Local Taxi Boards and trade unions as a part of that

rather than thinking that there is a best practice or one size fits all solution for the taxi industry via a Public Authority Transport Network.

Q10. Do you have any comments on the proposed guidance about drivers' personal security (paras 29; and 33-35)?

Unite would like to take this opportunity to highlight that local authorities are offering different amounts of assistance to drivers and passengers personal security, for example CCTV cameras. In Liverpool the local authority are paying £750 a taxi to fit them with CCTV's. Where as many other local authorities are offering no financial assistance, with regards to CCTV installation.

Clearly CCTV cameras can be an extremely useful deterrent to antisocial or indeed criminal behaviour. As well as providing an accurate picture of events, if unfortunately antisocial or indeed criminal behaviour takes place. CCTV is obviously to the benefit of the driver, passengers and the public. Therefore Unite would strongly argue that a recommendation of financial assistance is made to all local authorities within the guidance to fully cover or at least part cover CCTV installation in taxis.

Q11. Do you have any comments on the proposed guidance about stretched limousines (paras 38-40)?

Unite believes that stretched limousines should be brought within the licensing regime as a PHV and by doing so made to comply with the appropriate health and safety standards as is the case with other PHV's.

Unite believes that stretched limousines should have to display their licensed plates, in the same way as taxis and PHV's. As been as some stretched limousines are used as a hearse's, Unite feels it would be acceptable for licensed

plates to be on the inside of the vehicle as long as they are easily identifiable from the outside of the vehicle.

Further more Unite believes that if stretched limousines are to be brought within the licensing regime that a requirement of that licence must be local topographical knowledge.

Stretched Limousines and saloon cars should not be able to have tinted windows in the same way as taxis are not allowed. This is clearly double standards and there are some possible health and safety implications with allowing this.

Q12. Do you have any comments on the proposed guidance about criminal record checks on drivers (paras 54-57)?

Unite agrees that a criminal record check is an important safety measure and it is important to achieve consistency of application and a transparent process. In order to achieve this we believe that criminal records checks should be carried out on behalf of the Traffic Commissioners by VOSA. However it would be fundamentally wrong if taxi drivers in the UK have a different standard of CRC to those from the rest of the European Union or other overseas countries.

Unite does not feel it is acceptable for “details of minor offences, non-conviction information on the Police National Computer such as Fixed Penalty Notices and, in some cases, allegations” to be used in an enhanced disclosure check. Clearly where a conviction or allegation has not been substantiated then any decision is open to prejudice based on no hard proven facts. Unite also questions the relevance of minor offences and Fixed Penalty Notices in any decision making process.

The taxi industry already has the CRB and CRB enhanced checks. So is an ISA check needed? In addition the Government has to consider how many times are

taxi drivers going to be expected to pay for these checks? Especially when some CRB checks are taking too long and potential drivers are being left in limbo for considerable amounts of time without being able to earn a decent living in these hard times.

Q13. Do you have any comments on the proposed guidance about the Notifiable Occupations Scheme (paras 58-61)?

Unite is supportive of the guidance under this question.

Q14. Do you have any comments on the proposed guidance about Immigration checks (para 62)?

Again it would be fundamentally wrong if taxi drivers in the UK have a different standard of CRC to those from the rest of the European Union or other overseas countries. It should be a consistent standard of CRB check for all.

Q15. The Government is minded to remove reference to the exceptional C1 arrangements in the original guidance. However, in making a final decision, we would welcome feedback from stakeholders about the possible change. Do you have any evidence about the extent to which taxi/PHV drivers are currently licensed on the basis of the C1 arrangements (paras 63-64)?

Unite feels that the removal of the exceptional C1 arrangements could have a potentially negative affect on our taxi membership and even more so for taxi drivers not under trade representation. Unite does not know how many members this would affect but are aware it would be a major issue for taxi drivers. Therefore Unite opposes the removal of the exceptional C1 arrangements.

Q16. Do you think that it is appropriate for the proposed guidance to make no reference to the use of the C1 arrangements for insulin-treated drivers; please explain your reasons (paras 63-64)?

Unite does not think it is appropriate for the proposed guidance to make no reference to the use of the C1 arrangements for insulin-treated drivers because Unite believes that it would lead to a medical standard that discriminates against perfectly fit drivers who are of no risk to the public.

Q17. Do you have any comments on the proposed guidance about medical fitness (other than comments in relation to the C1 arrangements) including the proposed references to use of medical practitioners who are trained in the application of Group 2 medical standards? Would this add to costs? If so, would this be justified? (paras 63-66)?

Point 63 says “It is clearly good practice for medical checks to be made on each driver before the initial grant of a licence and thereafter for each renewal.” Unite believes the wording is misleading. It is a ‘requirement’ not ‘clearly good practice’.

The £145 standard NHS cost that taxi drivers are having to pay is too high and more cost effective options need to be found because taxi drivers have a lack of choice.

Q18. Do you have any comments on the proposed guidance about language proficiency (para 69)?

A VRQ course should be a requirement. Unite runs VRQ courses in conjunction with GoSkills and they give numeracy and literacy education to taxi drivers, including those for whom English is their second language.

Q19. Do you have any comments on the proposed guidance about other training (para 70)?

Unite agree that there may well be an advantage in requiring new taxi drivers to obtain one of the nationally recognised vocational qualifications for taxi drivers. Provided that grandfather rights are given to existing taxi drivers.

Q20. Do you have any comments on the proposed guidance about topographical knowledge (paras 71-72)?

Unite agree that taxi drivers need a good working knowledge of the area for which they are licensed. Therefore we would agree that would be taxi drivers should pass a test of local topographical knowledge as a condition of first grant of a licence. However, Unite believe that this should be undertaken by the Driving Standards Agency, or the Public Carriage Office for London taxi drivers, to ensure consistency of application across the country, and applicable to all taxi and PHV drivers and as stated in answer to question 11 all stretched limousine drivers who have been granted PHV licenses.

The proposed amendment in point 72 is too lenient and Unite does not believe it is acceptable for a relaxed approach to be taken particularly when children's safety could be at risk.

Q21. Do you have any comments on the proposed guidance about criminal record checks on PHV operators (para 74)?

Unite is supportive of the guidance under this question.

Q22. Do you have any comments on the proposed guidance about the repeal of the PHV contract exemption (paras 78-79)?

Our taxi members tell us that this is welcomed and that it will give local authorities the freedom to determine within the law, which range of vehicles and services should receive PHV licensing or not as the case may be.

Q23. Do you have any comments on the proposed guidance about enforcement (paras 80-84)?

Unite was pleased to see that Transport for London (TfL) reported that, together with the Metropolitan Police Service (MPS) it has been targeting illegal touting during a high-visibility operation overnight on February 20th and 21st of 2009. It reported that 25 arrests were made over the weekend following Operation Helvellyn, during which uniformed Police Officers and Police Community Support Officers patrolled hotspots to tackle touting and other cab-related issues.

Unite definitely would not want to see a further draft statutory instrument like the one Government were proposing, which would have introduced touting for hire car services as part of the "The Penalties for Disorderly Behaviour (Amount of Penalty)(Amendment) Order 2008 No.3297". Thankfully the touting for hire car services part of this SI was revoked.

The concern with the SI was that if a lesser 'tool' in the form of a fixed penalty was added to the mechanisms available to police, this may have encouraged a less vigorous approach. Even if the police had continued to arrest there would have been a risk that the existence of a fixed penalty could have meant that the CPS and the courts could have been resistant to prosecutions. Therefore this could have led to an unacceptable decriminalisation of what Unite considers to be a serious criminal offence.

Taxi touting involves completely unregulated vehicles and drivers and is widely agreed to put unwitting passengers at risk of assault and other crime, as well as increasing the likelihood of their being involved in accidents. There are no criminal record checks on people who are touting and this is not only dangerous to the passenger has previously stated but to the profession.

Unite believe what is required is a more consistent enforcement policy with dedicated resources from Government, more prosecutions and greater fines (not fixed penalty notices) to discourage touting especially during the economic downturn, when commentators have suggested that touting increases.

Q24. Do you have any comments on the proposed guidance about taxibuses (para 90)?

Unite is supportive of the guidance under this question.

Annex B – Notice for taxi passengers – what you can expect from the taxi trade and what the taxi trade can expect from you

Unite does not agree with this interpretation of when a taxi is hired “If using the meter, not start the meter until the passenger is seated in the vehicle”. Unite believe that within the taxi industry when a customer puts their handout then the driver is hired, so clearly it would be wrong to have this within any guidance.

Again Unite does not agree with this interpretation to “Take the most time-efficient route, bearing in mind likely traffic problems and known diversions, and explain any diversion from the most direct route.” Taxis are bound by law to take the direct route not the “most time-efficient”, so again clearly it would be wrong to have this within any guidance.

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