

Local Government Association Briefing

Licensing of Taxi and Private Hire Vehicles Bill

House of Commons

Friday 2 February 2018



Key messages

- The LGA welcomes this Bill which would make it easier for licensing authorities to access vital background information about drivers seeking a licence in their areas.
- The Bill would build on the LGA's work to commission a register of taxi/private hire vehicles (PHV) drivers who have had their licence revoked or refused. It will make sharing and checking information on the register mandatory.
- The Bill would be an important first step in updating existing legislation for the licensing of taxis and PHVs which is inadequate and outdated. The licensing framework has not kept pace with developments in technology and the need to ensure passengers are protected.
- In the longer term, the LGA is calling for a Taxi and PHV Licensing Reform Bill to replace the current, outdated legislation and modernise the licensing system for taxis and PHVs. This will be to the benefit of passengers and the trade.

The Licensing of Taxis and Private Hire Vehicles Bill

National register of licence revocations and refusals

We support the introduction of this Bill as it seeks to give legal backing to a register that will enable licensing authorities to check whether drivers seeking a licence in their area have previously had a licence taken away or refused elsewhere. It is currently difficult for councils to stop a driver who has had a licence revoked or refused in one area from gaining a licence somewhere else, if the driver does not disclose their previous history when making another application.

The LGA has been working to address this issue and in 2017 commissioned the National Anti-Fraud Network (NAFN) to develop and host a voluntary register of licence refusals and revocations. NAFN is a shared service, hosted by Tameside Council, which supports public authorities to tackle fraud and share intelligence. NAFN has been working with the LGA and a user group comprised of licensing officers from a number of local authorities to develop the register, and testing of the site is set to begin shortly.

Licensing authorities will be responsible for adding basic details of the drivers who have had a licence either revoked or suspended, or an application for a licence refused. When a licensing authority receives an application for a licence, the applicant's details will be run through the register to confirm that there is no record of them having been revoked or refused elsewhere. It will be up to individual authorities to follow up on any searches which come back with a match.

A register of refusals and revocations cannot solve the many challenges facing councils in regulating taxis and PHVs on its own. However, this Bill is an important step to tackling the specific issue of individuals making applications to different licensing authorities following a refusal or revocation.

Briefing

Cross-border hiring

The Bill would also make it compulsory for councils to report concerns about out-of-area drivers which may indicate that a licence should be suspended or revoked. Authorities will be required to report concerns to the authority which licensed the driver in question; these authorities will then be required to make a decision about whether or not a driver's licence should be suspended or revoked.

The LGA has argued that the proliferation of cross-border activity is undermining councils' ability to safeguard the public as they are unable to take enforcement action against taxi drivers licensed by other local authorities, even if they are operating in their areas. This new duty will create a requirement both to report these concerns and to act on them. This is a helpful development which we support; however it will not address wider issues that councils are facing relating to cross-border hiring and does not address the fundamental issue that authorities cannot themselves take enforcement action against out of area drivers operating in their areas.

Existing Taxi and Private Hire Vehicle (PHV) legislation

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

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

This legislation has not adequately kept pace with developments in technology and the need to ensure passengers are protected. In 2011 the Department for Transport (DfT) invited the Law Commission to undertake a review of taxi and PHV licensing. The Commission's 2014 report included a draft Bill with a comprehensive set of proposals to completely update and replace taxi and PHV legislationⁱ, however the Government has not formally responded to the Law Commission's report.

Since the Commission's report was published, the Jay and Casey reviews into Rotherham have highlighted the links between child sexual exploitation (CSE) and taxi and PHV licensing.ⁱⁱ Alongside this, there has been a significant increase in the volume of out of area working, partly due to the increasing popularity of apps such as Uber. This has raised concerns about how new taxi/PHV service operating models fit in to the current framework, again emphasising the problems of operating under outdated legislation.

Out of area working is a challenge for licensing authorities for a number of reasons:

- There is a mismatch between licensing fee income and the funding of enforcement officers where they are required.
- The inability of enforcement officers to take action against drivers and vehicles licensed outside their areas, and the fact that complaints against

drivers are made to the local licensing authority, who cannot resolve them but may not know where to direct them.

- The fact that there isn't a level playing field between drivers and operators working in a single licensing area, some of whom will be subject to specific local standards and conditions, and some of whom will not.
- Congestion and disruption to local residents being caused by some areas being overrun with PHVs not licensed in their areas.

Local authorities' requirements to improve taxi and PHV regulation

The licensing framework has not kept pace with developments in technology and the need to ensure passengers are protected. It is clear that urgent changes are needed to support councils to deal with the changing way taxis and PHVs are operating and ensure more stringent public protection measures are built into the licensing framework.

We are pleased that the Government has taken steps to review issues with the current licensing framework by setting up a task and finish group which the LGA is a member of. It is vital that government introduces a Taxi and PHV Reform Bill that:

- Establishes national minimum standards for all drivers, set at an appropriate high level;
- Ensures drivers are required to be licensed in the areas where they are operating; and
- Enables authorities to take enforcement action against anyone operating in their area.

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

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