

**EXETER CITY COUNCIL**

**LICENSING COMMITTEE**

**12 JUNE 2012**

**LAW COMMISSION – PROPOSALS FOR CHANGE TO TAXI AND PRIVATE  
HIRE LICENSING**

**1. PURPOSE OF REPORT**

- 1.1 To draw to the Licensing Committee's attention the main elements of a consultation document issued on the 10 May 2012 by the Law Commission relating to proposed changes to the activities that are regulated by this authority by way of hackney carriage and private hire vehicle and driver licensing.
- 1.2 A list of the main proposals is included at the end of this report. If you would like to contribute to the consultation you can do so via <http://lawcommission.justice.gov.uk/consultations/1804.htm> and follow the links at the bottom of that page.

**2. BACKGROUND**

- 2.1 The law relating to the licensing of Hackney Carriages has been around since 1847, introduced to control horse drawn carriages primarily in London, the legislation was last updated significantly in 1976 when the Local Government (Miscellaneous Provisions) Act 1976 was introduced to control vehicles and drivers that were making themselves available without plying for hire from a rank and until that time were completely unregulated, putting the travelling Public at risk of travelling in potentially dangerous vehicles and /or drivers.
- 2.2 Since the introduction in 1847 nothing much has changed on the face of the legislation but so much case law has developed in judgments handed down from the High Courts etc that the Law Commission decided to take the existing legislation and bring it up to date and additionally make it future-proof. The consultation document consists of over 250 pages and proposes 73 changes or introduction of new elements to existing law.
- 2.3 The Law Commission for England and Wales, which advises the Government on law reform, has launched a public consultation seeking views on proposed changes to the way in which Hackney Carriages and private hire vehicles (often referred to as minicabs) are regulated.
- 2.4 The proposals retain the distinction between taxis which can "ply for hire" on the street or a cab rank and private hire vehicles [PH] which can only be pre-booked, although the proposals include a recommendation that reference to hackney carriages in the legislation be deleted as it causes confusion; the public in general terms do not differentiate between taxis and private hire although most know that private hire must be pre-booked.

- 2.5 The proposals include a radical change by introducing national standards for taxis and PH vehicles with all vehicles being subject to national minimum safety standards. For private hire vehicles, these would replace more than 340 sets of local regulations reducing the burden on business because, once appropriately licensed, a private hire firm could work freely across the country, without geographical or licensing restrictions. The Law Commission states that this would contribute to widening consumer choice and to making services cheaper and more competitive.
- 2.6 None of the proposals would affect the traditional London “black cab” but taxi numbers could no longer be restricted by local authorities on the basis of unmet demand, or indeed for any other reason as is currently permitted.
- 2.7 Licensing of PH vehicles would be extended to cover limousines, motorcycle “taxis” and bicycle rickshaws (or “pedicabs”), which under current law and /or the lack of local conditions may avoid the safety and driver training requirements imposed on taxis and PH vehicles.
- 2.8 Among the proposals is a requirement that all new taxi and private hire drivers should have disability awareness training. This has taken place in Exeter for a number of years so will not be an additional task for new applicants. The consultation also asks whether there should be a specific licence for disabled accessible vehicles.
- 2.9 Where drivers or operators do break the rules, the consultation suggests that improved enforcement powers should be available, perhaps by way of fixed penalty notices and may include powers to take action on vehicles that are not licensed by this authority but come into Exeter to work.

### **3. FINANCIAL IMPLICATIONS**

- 3.1 Although it is far too soon to properly assess the full impact of the changes that may come about, the predictable elements of change would suggest that there would probably no longer be a need to carry out unmet demand surveys as the right to restrict numbers will be abolished. Some officer time would be released as there would no longer be any need to prepare reports relating to applications for taxis to be placed before the Licensing Committee.
- 3.2 There is a potential impact on resource implications if additional officer time is required to properly enforce the legislation with our own fleet and those vehicles and drivers that come into the City to work.
- 3.3 It should be noted that in line with the decision in the very recent case of R (Hemming and Others) v Westminster City Council, Exeter City Council is not permitted to increase fees and charges to cover any costs arising from enforcement of licensing regimes.

**4. RECOMMENDED**

- 4.1 It is recommended that the Licensing Committee note the content of this report.

Assistant Director Environment

COMMUNITY AND ENVIRONMENT DIRECTORATE

**Local Government (Access to Information) Act 1985 (as amended)**

Background papers used in compiling this report:- None.

## PRINCIPAL PROPOSED CHANGES AND AMENDMENTS.

- 1 London to be included in taxi and PH legislation for the first time, currently Transport for London and the Public Carriage Office administer the system in the Greater London area.
- 2 Local Authorities will no longer be permitted to apply restriction on numbers of taxi licenses.
- 3 Vehicles used should not be restricted but should focus on provision of vehicle with services of a driver which removes a loophole allowing unlicensed vehicles in some circumstances.
- 4 PSV to be excluded and new law to cover taxi and PH vehicles only.
- 5 National minimum standards to be drawn up for taxis and the drivers.
- 6 National maximum standards to be drawn up for PH vehicles and the drivers **N.B.** The maximum standard for PH will be equivalent to the minimum for Taxis.
- 7 The concept of hailing and ranking should **not** cover technological means of engaging taxi services.
- 8 A proposal is included which will change the definition of hiring taxis to “in respect of making arrangements in a public place” rather than plying for hire.
- 9 Pre-booking of PH vehicles would encompass all technological means of hiring them.
- 10 PH vehicles would be subject only to conditions (nationally set) that relate to public safety, with a possible exemption for control of signage on PH vehicles.
- 11 Licensing Authorities would be permitted to have additional conditions in respect of taxis perhaps subject to statutory maximum conditions.
- 12 The “fit and proper” test for drivers should be set out in primary legislation.
- 13 Operator licences to be retained for PH but possibly extended to cover taxi radio circuits.
- 14 Operators will be permitted to sub-contract services.
- 15 PH drivers no longer required to keep individual records.
- 16 A proposal to consider the possibility of introducing a new licence category specifically for wheelchair accessible vehicles, such vehicles subject to a lower level of fees and charges.
- 17 Proposals to be introduced to require taxi drivers to stop and assist disabled persons hailing the taxi.

- 18 Licensing Officers to be given the powers to stop/check licensed vehicles with a proposed power to have the vehicle impounded.
- 19 A right to appeal a licensing authority decision will be restricted to an applicant for a licence.
- 20 A new stage of appeal in regard to taxi and PH matters that will require the Local Authority to review its own decision and reasons.
- 21 All appeals to be heard in the Magistrates Court with the possibility of new right to appeal onward to the Crown Court.