



BRIEFING PAPER

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Taxi and private hire vehicle licensing in England

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Inside:

1. What is a 'taxi'?
2. History
3. Licensing law in Scotland, Wales and Northern Ireland
4. Licensing law in England, outside London
5. Licensing law in London
6. Enforcement
7. Notable reports on industry reform
8. Issues



Contents

Summary	3
1. What is a ‘taxi’?	4
2. History	5
3. Licensing law in Scotland, Wales and Northern Ireland	7
3.1 Scotland	7
3.2 Wales	7
3.3 Northern Ireland	8
4. Licensing law in England, outside London	10
4.1 Taxis/hackney carriages	10
4.2 Private hire vehicles/minicabs	11
5. Licensing law in London	13
5.1 Taxis/hackney carriages (‘black cabs’)	13
5.2 Private hire vehicles/minicabs	13
5.3 London-specific issues	15
Emissions	15
PHV licensing reform, 2015-	16
Re-licensing of Uber, 2017-	18
Taxi ranks	20
6. Enforcement	21
7. Notable reports on industry reform	22
7.1 Law Commission, May 2014	22
Deregulation Act 2015	24
7.2 Institute for Economic Affairs, November 2016	25
7.3 All Party Parliamentary Group on taxis, 2017	26
7.4 Task and Finish Group, September 2018	28
8. Issues	32
8.1 Capping licence numbers	32
Numbers of licensed operators, vehicles and drivers	32
Historical debates about local taxi caps	32
Recent calls for PHV caps	33
8.2 PHVs cross-border working	35
8.3 Accessibility	38
Legislation	39
Future changes?	40
8.4 Passenger safety	41
Licensing of Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Bill 2017-19	44
8.5 Plying for hire	45
8.6 Taximeters	47
Uber in London and the 2015 court case	48
8.7 Disruptive technology	48
Competitiveness of the taxi trade	51

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Summary

This paper sets out the licensing arrangements for taxis and private hire vehicles (PHVs), drivers and operators in England and the enforcement of those licences. It also looks at some of the most significant reports into the future of the taxi and PHV industries in recent years and issues currently of concern to the industry and licensing authorities such as capping licence numbers, cross-border working, accessibility and disruptive technology.

Taxi and PHV licensing law in England dates back in some instances to the 19th century – though the origins of the taxi trade go much further back to the 17th century. There was some update to the licensing law in the 1970s and more recently in London in the 1990s, but since then there has been no national legislative change, despite significant developments in technology, travel behaviour and customer demands.

This has led to an increasing number of calls in recent years for wholesale reform of the licensing law. This was really kick-started in 2012-14 by the Law Commission, which published a comprehensive overview of the industry and how it should look going forward. It also published a draft bill for consideration by the Government. Although the Coalition Government accepted a small number of the Commission's recommendations and legislated for them in 2015, nothing further has been done.

The entry of Uber into the London PHV market and the way it has transformed it, has given impetus to the calls for reform. There are some who believe that the advent of Uber and other smartphone app-based technologies is a chance to completely rethink what the industry should look like going forward as a consumer-led, deregulated system where the differences between taxis and PHVs disappear. Others, while welcoming some of the benefits from these app-led providers in terms of consumer choice, caution against unleashing a 'free for all' and are calling for better regulation, standardisation across the country and more powers for local licensing authorities to cap PHV numbers and prevent cross-border hiring.

Reports by the All Party Parliamentary Group on taxis, the Urban Transport Group, the Institute for Economic Affairs and others followed the work of the Law Commission and led to differing conclusions and recommendations for the future. In July 2017 in response to these reports and the changing industry particularly in and around London, the Government set up a working group to consider regulatory issues and remedies for the industry. This 'Task and Finish Group' reported in September 2018, recommending national licensing standards, limits on cross-border working, powers to cap licenses under certain circumstances and higher safeguarding standards. These reports and their recommendations are discussed in the substance of this paper.

Please note that this paper does not look at the wider implications of the 'gig economy' and the employment rights and other issues which have been raised with regards to app-based operators like Uber. For an overview of some of these issues, see the Library's Second Reading blog, "[Employment rights in the gig economy](#)", 26 June 2017. More generally, further information on roads- and traffic-related issues can be found on the [Roads Briefings Page](#) of the Parliament website.

1. What is a 'taxi'?

The term 'taxi' is in common usage across the country, but there can be differences in how that term is used.

For example, in London the term 'taxi' is synonymous with the city's black cabs (licensed as 'hackney carriages') and the term 'minicab' tends to be used to refer to private hire vehicles (essentially anything that is not a black cab). Outside of London the term 'taxi' is often used to refer to both hackney carriages *and* PHVs, although they are licensed differently.

The term 'taxi' is relatively modern. It was first used in legislation in the [Transport Act 1980](#), where section 64(3) defines a taxi in the same terms as a 'hackney carriage'.¹ Most of the legislation and case law still refers to taxis as 'hackney carriages'.

The Law Commission looked at the definition of 'taxi' in its May 2014 report. It concluded that the term 'hackney carriage' should be replaced in legislation with the word 'taxi', while the term 'private hire vehicle' should remain unchanged:

We ... recommend that the statutory language be changed to "taxi" for hackney carriages. The use of "hackney carriage" is an historic anomaly. "Private hire", on the other hand, is a modern term which, although it may not receive much public usage, accurately describes the service it relates to.

We recognise that there is a significant depth of feeling in relation to the use of the term "taxi", in any form, by private hire firms. Given the growth of online marketing it seems that only an outright prohibition on these terms would be effective. We acknowledge that the term "private hire" is not well-known amongst the general public, and the term "minicab" is only used to any great extent in London. Yet if private hire vehicles are to be prohibited from using signage including the word "taxi" it appears inevitable that this restriction should also apply to advertising. It could be argued that allowing private hire firms to advertise as taxis might encourage the public to try to hail private hire vehicles. On the other hand, private hire vehicles should continue to be allowed to advertise as "cabs".²

Thus, for the purposes of this paper, and in line with the Law Commission's recommendation, the term 'taxi' is used to refer to what are currently defined in legislation as 'hackney carriages'.

¹ i.e. a vehicle licensed under section 37 of the *Town Police Clauses Act 1847*, section 6 of the *Metropolitan Carriage Act 1869*, section 10 of the *Civic Government (Scotland) Act 1982* or "any similar local enactment"

² Law Commission, [Taxi and Private Hire Services](#) (Law Com No 347), Cm 8864, May 2014, p24, paras 3.31-3.32

2. History

The regulation of the taxi industry could be said to have begun in the seventeenth century, under King Charles I, who was concerned about congestion in the City of London. He issued a proclamation restricting the number of hackney coaches to 50 and preventing them from carrying passengers less than three miles:

King Charles I initially forbade that "any hired coach be used or suffered in London" in 1635 [...] Londoners ignored the King and continued hiring any coach they could, often from "innkeepers, brokers and other tradesmen, intruders into the profession of coachmen"—according to the career coachmen who started lobbying for explicit and exclusive rights to "ply for hire" in the streets. Their petitions offered contributions for the Exchequer, streets fit for the Queen, a small army if His Majesty pleased, etc.

Charles soon saw their point. In 1637 he proclaimed that just a few hired coaches were so "very requisite for our Nobility" that "there should be a small competent number allowed for such uses." He followed up shortly with Royal preferences on horse specs and buggy make. After the Interregnum, Charles II issued more licenses, and licensing fees and standards, with preference to "ancient Coachmen or such Coachmen as have suffered for their service and affections to" the King or his late father.³

In 1654 the first Parliament of Oliver Cromwell's Protectorate legislated for the establishment of the Fellowship of Master Hackney Coachmen. Though the Act was only to remain in force for three years, it was the forerunner of every future Act of Parliament concerning hackney carriages, including coaches, horse drawn cabs and taxis until the present day.⁴

The present licensing system is more modern but some of it does date back to the nineteenth century.

There are basically two trades providing driver and car hire: taxis (hackney carriages), and private hire vehicles (PHVs or 'minicabs'). The main difference between the two is that taxis ply for hire from taxi ranks and can be hired in the street whereas minicabs *must* be pre-booked electronically, by telephone or calling in person at an office.

There is a large market overlap between taxis and PHVs. An increasing proportion of taxis undertake pre-booked and contract hirings, and PHVs are not infrequently booked immediately before hire (e.g. at supermarkets or rail stations), so being used in a way almost indistinguishable from plying for hire. The dividing line between the two trades has therefore become increasingly blurred and there have been an increasing number of calls for clarity.

The present regulatory arrangements governing taxis and PHVs have grown up by historical accident rather than design. The law has different rules for taxis and PHVs and varies within and outside London.

³ "[London's War of the Roads](#)", *Wall Street Journal*, 10 June 2013

⁴ Worshipful Company of Hackney Carriage Drivers, [History of the Company](#) [accessed 10 November 2017]

The trade is continually evolving and technological change has had marked effects, as discussed below.

3. Licensing law in Scotland, Wales and Northern Ireland

Licensing law is devolved across the UK. In Scotland, Wales and Northern Ireland the relevant law and guidance are set out, briefly, below.

The remainder of this paper focuses on the law in and issues relating to England.

3.1 Scotland

In Scotland taxis and PHVs are licensed under Part II of the [Civic Government \(Scotland\) Act 1982](#), as amended.

The licensing system is similar to that in England but there are some differences. One of the major ones, which campaigners in England have flagged up, is the cross-border hiring of PHVs (see section 7.2 for more information). In Scotland section 21(1)(b) of the 1982 Act requires PHVs to return to their licensing area to accept a booking after travelling outside that area (e.g. a PHV driver in Glasgow can accept a fare in Glasgow that takes them out of the city but they cannot pick up someone outside the city, they have to return to Glasgow to pick up another fare).

The most recent information on the Scottish licensing system is a briefing by the Scottish Parliament Information Centre (SPICe) in 2014 on what became the [Air Weapons and Licensing \(Scotland\) Act 2015](#) and a 2016 consultation by the Scottish Government on the impact of new technologies on the taxi and PHV industry.⁵

3.2 Wales

Full legislative powers in this area have only recently been devolved to Wales.

In Wales, taxis are licensed by district councils under the [Town Police Clauses Act 1847](#) or that Act as amended by the [Local Government \(Miscellaneous Provisions\) Act 1976](#). All taxis and their drivers must be licensed. PHVs, drivers and operators are subject to licensing if a district council has adopted Part II of the 1976 Act (most have) or has similar provisions contained in a local Act.

There had been some confusion as to where legislative competence lay following the [Government of Wales Act 2006](#). As the Law Commission explained in their 2014 report on overhauling the licensing system:

In the consultation paper, we set out our view that legislative competence in respect of the regulation of taxis and private hire vehicles was devolved under the Government of Wales Act 2006. That view was reflected in our preliminary proposals. However, since that time it has become apparent that Welsh Ministers

⁵ SPICe, [Air Weapons and Licensing \(Scotland\) Bill: Local Government Licensing](#), 14/91, 12 November 2014, pp19-25; and Scottish Government, [Taxi and Private Hire Car Licensing - Consultation on the Impact of Modern Technology](#), 21 March 2016

consider the legal position to be too unclear to support that conclusion. In light of that, we proceed for the purposes of this report on the basis that legislative competence in respect of the regulation of taxis and private hire vehicles is not devolved and that the relevant functions will be exercised by the Secretary of State in relation to all of England and Wales.⁶

The second report of the Silk Commission recommended further devolution of powers on taxi regulation.⁷ The February 2015 St David's Day Agreement stated the then Government's intention to take forward most of the recommendations in the Silk report, including the registration of taxis and PHVs.

The [Wales Act 2017](#) devolves to the Welsh Assembly the powers to legislate for taxi and PHV vehicle and driver licensing and PHV operator licensing. It does this by inserting a [new Schedule 7A](#) into the *Government of Wales Act 2006* (and repealing Schedule 7). Under Head E1 of new Schedule 7A are listed those road transport powers reserved to Westminster. Taxi and PHV regulation is not listed. Section 28 of the Act further transfers the Secretary of State's functions in section 10 of the *Transport Act 1985* (the immediate hiring of taxis at separate fares), to Welsh Ministers.⁸

On the issue of cross-border services, the impact assessment accompanying the then Bill stated that "any taxi and PHV firms that operate across the English-Welsh border would have to work within, and comply with, different regimes if the Assembly legislates to introduce a different licensing regime in Wales".⁹

In June 2017 the Welsh Government launched a consultation on reform of the taxi law in Wales.¹⁰ The consultation closed in September 2017 and a summary of responses was published in February 2018. On 9 October 2018 the Senedd Research Service published a paper indicating that the Welsh Government intends to "publish a White Paper this year with detailed proposals for reform".¹¹ The Welsh Government has yet to publish any further proposals.

3.3 Northern Ireland

In Northern Ireland taxis are licensed under the [Taxis Act \(Northern Ireland\) 2008](#). The Act sets out a new legal framework for the regulation of taxis and taxi services. It covers the licensing of taxi operators, drivers and vehicles, fares and taximeters, hiring of taxis at separate fares, enforcement and penalties. The *Taxi Licensing Regulations (Northern Ireland) 2015* ([NISR 2015/393](#)) established the

⁶ Op cit., [Taxi and Private Hire Services](#) (Law Com No 347), para 1.15

⁷ Commission on Devolution in Wales, [Empowerment and Responsibility: Legislative Powers to Strengthen Wales](#), March 2014, p74

⁸ New Schedule 7A is not yet in force, it will require a Commencement Order under section 71 of the Act

⁹ Wales Office, [Impact Assessment of the Wales Bill](#), 7 June 2016, p5

¹⁰ Welsh Government press notice, "[Welsh Government look to update 200 year old taxi licensing](#)", 13 June 2017 and [Taxi and private hire vehicle licensing in Wales: consultation](#), June 2017

¹¹ Senedd Research Service, [Petition: Allow Free Movement of Taxi Drivers to Carry Out Private Hire Work Anywhere in Wales](#), RS Ref: 18/6986, 9 October 2018, p3

9 Taxi and private hire vehicle licensing in England

new framework, which came into effect from 31 May 2016. A summary is available on the [NIDirect website](#).

4. Licensing law in England, outside London

The licensing conditions that are applied to taxi and PHV operators and drivers and the local conditions of vehicle fitness are for each local licensing authority to decide, so can vary considerably from area to area. Licensing authorities are entitled to charge a 'reasonable' fee to cover the costs of administration and issue of a licence:

... a district council may demand and recover for the grant to any person of a licence to drive a hackney carriage, or a private vehicle, as the case may be, such a fee as they consider reasonable with a view to recovering the costs of issue and administration and may remit the whole or part of the fee in respect of a private hire vehicle in any case in which they think it appropriate to do so.¹²

4.1 Taxis/hackney carriages

Taxis and their drivers have to be licensed. Outside London the local district council is usually the licensing authority for vehicles and drivers. Licences are issued under the [Town Police Clauses Act 1847](#) or that Act as amended by the [Local Government \(Miscellaneous Provisions\) Act 1976](#).

In granting a **taxi driver's** licence the authority is required to satisfy itself that the applicant is a 'fit and proper' person. This expression is not defined in statute and its interpretation is for each council to decide. Authorities may make byelaws covering such matters as fares and taxi ranks.

A number of licensing authorities across England have adopted conditions of fitness identical or similar to those imposed in London and only allow drivers and vehicles that meet them to be licensed in their areas. This can involve:

- a criminal record check;
- a comprehensive topographic examination;
- a medical;
- a driving test; and/or
- a check on the financial standing of prospective proprietors.

There is no statutory requirement for local authorities to carry out a **criminal record check** before issuing a licence to a taxi driver. As they are, however, required to ensure that the applicant is a 'fit and proper person', many authorities do, in fact, require such a check. Section 47 of the [Road Traffic Act 1991](#) gave licensing authorities a power to check an applicant's background with the police. Now they rely on the [Disclosure and Barring Service \(DBS\)](#) rather than on local police forces to supply criminal record information about applicants.

¹² [section 53\(2\)](#) of the *Local Government (Miscellaneous Provisions) Act 1976*, as amended

In addition, many licensing authorities outside London have decided to insist on the **medical requirements** of the Group 2 licence for all taxi drivers.¹³ It is up to the individual authority to decide on the requirements that a driver must meet and it is responsible for determining the standards, including medical requirements, to be applied to taxi drivers in their areas, over and above the driver licensing requirements.

Licensing authorities also set **standards for vehicles** licensed in their areas. Some of the larger authorities stipulate that only wheelchair accessible vehicles will be licensed (for more information see section 7.3, below). The majority of taxis outside London remain, however, saloon cars. Section 47 of the 1976 Act allows a licensing authority to attach to the grant of a licence for a hackney carriage any conditions that the district council may consider 'reasonably necessary' (such as number of seats). Any person aggrieved by any conditions attached to the licence may appeal to a Magistrates' Court under section 47(3).

Local licensing authorities have the power to set maximum **fares** under sections 65 and 66 of the 1976 Act, as amended, and most do. The Government advises that fare scales should be set with a view to practicality and regularly reviewed.¹⁴

There used to be a **special taxi/PHV driver test**, administered by the Driver and Vehicle Standards Agency (DVSA), but this was abolished from 31 December 2016 so that DVSA could re-focus its resources on its statutory duties.¹⁵

4.2 Private hire vehicles/minicabs

A private hire vehicle (PHV), or 'minicab', is defined in section 80 of the 1976 Act as:

... a motor vehicle constructed or adapted to seat [fewer than nine passengers], other than a hackney carriage or public service vehicle [or a London cab] [or tramcar], which is provided for hire with the services of a driver for the purpose of carrying passengers

This definition specifically excludes taxis and buses but does not make any distinction between chauffeur-type services and conventional PHV services. Exemptions from licensing permitted under the 1976 Act are listed under section 75, they include vehicles used for weddings and funerals.

PHVs are **not permitted to ply for hire in the streets, or at a rank**, like a taxi: they can only be hired through an operator, who usually controls their PHVs by means of radios or other communications device. The owner of a PHV is usually referred to legally as its 'proprietor'; in practice most PHVs are owner-driven.

¹³ for more details on medical requirements, see HC Library briefing paper [SN387](#)

¹⁴ DfT, *Taxi and private hire vehicle licensing: best practice guidance*, 2 March 2010, para 52

¹⁵ DVSA press notice, "[DVSA taxi driving tests to end in December 2016](#)", 12 September 2016

PHV drivers and operators are subject to licensing if a licensing authority has adopted Part II of the 1976 Act or has similar provisions contained in a local Act. About 95 per cent of councils, including all the larger ones, have adopted the provisions. There is no control on the **fares** that may be charged. As PHVs have to be booked in advance, the customer is expected to agree the fare at the time of booking.

PHV **drivers** need an ordinary driving licence covering category B, which allows them to drive vehicles up to 3.5 tonnes and with up to eight passengers, and must also be a 'fit and proper' person. PHV drivers can be subject to the same criminal record checks and topographical knowledge tests as those required for taxi drivers. Most licensing authorities also require medical certificates. Again it is for the licensing authorities to decide who is a 'fit and proper person' as it is not defined in legislation.

In terms of **vehicles**, section 48 of the 1976 Act states that before granting a licence for a vehicle to be used as a PHV, the licensing authority must be satisfied that the vehicle is:

- suitable in type, size and design for use as a PHV;
- not of such design as to lead any person to believe the vehicle is a hackney carriage;
- in a suitable mechanical condition;
- safe; and
- comfortable.

5. Licensing law in London

5.1 Taxis/hackney carriages ('black cabs')

[Transport for London \(TfL\)](#) licenses London taxis and taxi drivers under the [Metropolitan Public Carriage Act 1869](#) and the *London Cab Order 1934* (SI 1934/1346). The 1934 Order, as amended, is the main legislative basis for the present licensing regime. There are two types of London taxi driver licence: the All London/Green Badge and the Suburban/Yellow Badge.¹⁶

TfL sets **fare** levels and approves fees for driver and vehicle licences. The [taxi fare tariffs](#) are set in accordance with a formula devised by TfL, following consultation with the taxi trade and others, including [London TravelWatch](#).

The **requirements for drivers** include a minimum age limit of 21 years (there is no upper age limit); meeting the Group 2 standard of medical fitness to drive; criminal records and financial standing checks; and the Knowledge of London test.¹⁷ TfL has a duty to ensure it grants licences only to people who are 'fit and proper' to drive a taxi.¹⁸ An applicant may invite the licensing authority to reconsider a decision to refuse a licence or appeal the decision to the Magistrates' Court.

Vehicles for use as taxis in London have to satisfy the metropolitan Conditions of Fitness. These prescribe, for instance, a turning circle of 8.535 metres, emissions limits, acceptance of contactless payment,¹⁹ an approved taximeter to be fitted, wheelchair accessibility and a 15 year age limit.²⁰

The London taxi trade supports these initiatives, especially reducing emissions, accessibility and modernisation of the passenger offering (e.g. with on-board ultra-fast Wi-Fi).²¹

5.2 Private hire vehicles/minicabs

The London minicab trade was unregulated for much longer than the taxi trade or PHVs outside London.²² The law changed in 1998 and licensing was gradually introduced over the following six years.

In 2000 TfL assumed responsibility for PHV licensing from the Secretary of State under section 254 of the [Greater London Authority Act 1999](#).

¹⁶ TfL, [Suburban Taxi Licensing Consultation](#), 14 February 2014; and "[Black cab badges show which drivers have The Knowledge](#)", *London Evening Standard*, 8 August 2011

¹⁷ for details, see: TfL, [Apply for a taxi driver licence](#) [accessed 14 November 2017]

¹⁸ Article 25 of the 1934 Order

¹⁹ Introduced from 3 October 2016, see: TfL press notice, "[Mayor and TfL confirm card and contactless payments will be accepted by London taxis](#)", 26 November 2015

²⁰ for details, see: TfL, [Apply for a taxi vehicle licence](#) [accessed 14 November 2017]

²¹ London Taxi Company & others, [London's Taxi Revolution: Faster, Smarter, Greener - Action Plan from the Taxi Trade #StayFareMayor](#), 4 April 2016

²² see, e.g. DoT, *Taxis and PHVs: a consultation paper on the future of the taxi and private hire services in England and Wales*, October 1993; see also: Transport Committee, *Taxis and Private Hire Vehicles* (fourth report of session 1993-94), HC 239, 30 March 1994

The [Private Hire Vehicles \(London\) Act 1998](#) provided for the licensing of minicabs in London and applies to PHV operators, drivers and vehicles. It was a Private Members' Bill introduced by Sir George Young, former Conservative Secretary of State for Transport, with the support of all three main political parties. It did not specify the regulatory system and left considerable discretion to the regulatory authority to decide the details. Such an arrangement was in line with the precedents for the regulation both of London taxis, and of taxis and PHVs outside London.

Under section 1 of the 1998 Act a PHV is defined as:

...a vehicle constructed or adapted to seat fewer than nine passenger seats which is made available with a driver to the public for hire for the purpose of carrying one or more passengers, other than a licensed taxi or a public service vehicle.²³

The operator, driver and vehicle licensing requirements were introduced in stages between October 2001 and March 2004.²⁴

TfL requires PHV **drivers** to:

- be at least 21 years of age;
- hold a full GB, NI or EEA driving licence that is at least three years old;
- have the right to live and work in the UK;
- be of good character (established through an 'enhanced' criminal records check);
- meet the Group 2 medical standards; and
- undertake a topographical skills assessment.²⁵

Vehicles licensed as PHVs by TfL must be no older than five years and meet the Euro 4 standards for emissions at time of licensing (for new licenses) or be no older than 10 years at time of licensing (for existing licensees).²⁶

Companies and individuals licensed as PHV **operators** by TfL must meet a number of requirements, one of the most significant being that they are a 'fit and proper person'. TfL's guidance states that: "In order to be considered as [a fit and proper person], applicants will be expected to demonstrate that they have complied with other legal requirements

²³ there was some concern over the interpretation of the definition, for full details, see: DfT, [Changes to Taxi and Private Hire Vehicle Legislation in the Road Safety Act 2006](#), 28 February 2007, paras 10-13; legislated for in the *Private Hire Vehicles (London) (Transitional Provisions) (Amendment) Regulations 2007* ([SI 2007/3453](#)) which came into force on 31 December 2007

²⁴ *Private Hire Vehicles (London) (operators' licences) Regulations 2000* ([SI 2000/3146](#)); the *Private Hire Vehicles (London PHV Driver's Licences) Regulations 2003*; and the *Private Hire Vehicles (London PHV Licences) Regulations 2004*

²⁵ for details, see: TfL, [Apply for a private hire driver licence](#) [accessed 15 November 2017]

²⁶ for details, see: TfL, [Apply for a private hire vehicle licence](#) [accessed 22 November 2017]

connected with running a business. Failure to do so could result in the refusal of an application”.²⁷

TfL also recently changed the **licensing fee structure** for operators, so that those with bigger operations pay a higher fee: this varies from £2,000 for a five year licence for a small operator with 10 or fewer vehicles to £2.9 million for a five year licence for a large operator with 10,001 or more vehicles.²⁸

5.3 London-specific issues

Emissions

On 8 April 2019 TfL is planning to introduce an [Ultra Low Emission Zone \(ULEZ\)](#). From this date most vehicles will need to meet exhaust emission standards or pay a daily charge, when travelling in central London. These plans originated under the previous mayor, Boris Johnson, and have been brought forward by the current mayor, Sadiq Khan.

The question of what to do with the London taxi trade in the context of the ULEZ has been a difficult one – the ULEZ itself will not apply to black cabs²⁹ but there are separate plans to ‘green’ the taxi and PHV fleets in London.

In October 2015 TfL announced its decision to go ahead with the introduction of a ZEC (zero emission capable) requirement for all taxis licensed for the first time from 1 January 2018. A voluntary decommissioning scheme for taxis over 10 years old would be introduced and purchasing grants to assist in the purchase of ZEC taxis would also be available.³⁰

For PHVs, from 1 January 2020 all vehicles under 18 months old and licensed for the first time would have to be ZEC. To clean-up the PHV fleet in readiness for this change, all PHVs licensed for the first time between 1 January 2018 and 31 December 2019 (regardless of age) must be either Euro 6 (diesel/petrol) or a Euro 4 petrol-hybrid. Older PHVs (over 18 months) would need to be Euro 6 (petrol/diesel) when licensed for the first time between 1 January 2020 and 31 December 2022, with the intention that all vehicles granted a PHV licence for the first time after 1 January 2023 must be ZEC, regardless of age.³¹

The taxi trade is concerned about the cost of these new requirements for black cabs.³²

In March 2015 the Government announced that £25 million had been set aside specifically for the Greater London area to help taxi drivers

²⁷ TfL, [A guide for applicants who are applying for a London private hire operator's licence](#), Part 4 [accessed 5 December 2017]

²⁸ for details, see: TfL, [Apply for a private hire operator licence](#) [accessed 5 December 2017]

²⁹ TfL press notice, “[GLA - Mayor plans to introduce ULEZ in April 2019](#)”, 4 April 2017

³⁰ TfL, [Consultation on updated ULEZ proposals for taxis and Private Hire Vehicle licensing](#), 26 October 2015

³¹ *ibid.*

³² see, e.g., LCDC, [London Cab Drivers Club response to TfL Ultra Low Emission Zone Consultation](#), 27 October 2014

cover the cost of upgrading to a greener vehicle. DfT said that this funding was “in addition to £40 million already committed by the Mayor of London to compensate taxi drivers whose vehicles are affected by new tighter age limits to retire the oldest, most polluting taxis”.³³

In November 2016 the Government announced that it would make available a further £150 million for cleaner buses and taxis.³⁴ In March 2017 it announced a £50 million Plug-in Taxi Grant programme. This will give taxi drivers up to £7,500 off the price of a new vehicle. Taxi drivers who switch to the new electric cabs could also save around £2,800 in fuel costs a year. It also announced £5.2 million for new dedicated chargepoints for electric taxis in London.³⁵

In 2018 the Government confirmed its intention to exempt new purpose-built zero-emission capable taxis (London black cabs) from the first year VED supplement for vehicles with a list price of over £40,000.³⁶

The new 'green' black cab

In March 2015 Geely's announced plans for a new £250 million state of the art facility to produce the next generation of low-emission London Black Taxis. This included a £17 million contribution from the Government's Regional Growth Fund to build the facility.³⁷ The new plant, in Coventry, opened in March 2017.³⁸

In December 2017 the rebranded London Electric Vehicle Company (LEVC) launched the new model TX, which has a small petrol generator with an advanced battery electric powertrain, giving drivers a range of 80 miles on pure electric, and a combined range of up to 400 miles.³⁹

PHV licensing reform, 2015-

In March 2015 TfL published for **consultation a review of PHV regulations**. This looked at several issues, including: the complaints process; operating centres; customer information; an English language requirement for drivers; and driver training.⁴⁰ In September TfL published further proposals for consultation⁴¹ and in March 2016 the TfL Board approved the following changes:

- More robust 'hire and reward' **insurance** requirements that will mean a policy has to be in place for the duration of the vehicle

³³ BIS/OLEV/DfT press notice, “[Black taxis go green with £45 million government investment](#)”, 26 March 2015

³⁴ DfT press notice, “[Government pledges £290 million boost for low emission vehicles](#)”, 29 November 2016

³⁵ DfT press notice, “[1,000 jobs created at new £325 million factory for electric taxis](#)”, 22 March 2017

³⁶ See, e.g., HMT press notice, “[Tax break to help Black cabs go green](#)”, 6 March 2018 and HMRC, [Exempt zero-emission capable taxis from Vehicle Excise Duty expensive car supplement](#), 6 July 2018

³⁷ op cit., “[Black taxis go green with £45 million government investment](#)”

³⁸ “[London Taxi Company opens £300m electric black cab factory in Coventry](#)”, *Daily Telegraph*, 22 March 2017

³⁹ “[London's new electric black cab is now ready for passengers](#)”, *City A.M.*, 5 December 2017

⁴⁰ TfL, [Private Hire Regulations Review Consultation](#), 27 March 2015

⁴¹ TfL, [Private Hire Regulations Review: Response to Consultation and further Proposals](#), 30 September 2015

17 Taxi and private hire vehicle licensing in England

licence, including when the vehicle is presented for inspection to TfL;

- A formal **English language** requirement for all drivers;
- A fare estimate for customers in advance of their journey;
- The provision of driver and vehicle details to customers, including a photo of the driver, before the start of each journey where customers are able to receive this information;
- Private hire operators will be required to ensure that customers can speak to someone in the event of a problem with their journey; and
- Requiring operators to keep improved records and provide driver and vehicle information to TfL regularly to make enforcement easier and more effective.⁴²

The bulk of these changes came into force in June 2016 following amendment of the *Private Hire Vehicles (London PHV Licences) Regulations 2004*.⁴³

The [English language requirement](#) was supposed to take effect from 1 October 2016 and require all applicants to present a valid English language certificate with a B1 level of English on the Common European Framework (CEFR).⁴⁴ However, Uber had indicated its intention to file a legal challenge against the requirement, which the company subsequently dropped in February 2018.⁴⁵ TfL has said that:

A transitional process is in place and applicants for new licences and renewals have until **30 April 2019** to provide evidence that they meet the English language requirement. For applications received after 30 April 2019, applicants will have to provide evidence that they meet the English language requirement as part of their application before a licence will be issued.⁴⁶

In March 2018 TfL published a consultation on further reforms to improve private hire safety. These were in the fields of driving tests and background checks for PHV drivers and signage, driver ID and insurance for PHVs. The specific proposals were as follows:

- **Driving tests:** to introduce an advanced driving assessment for PHV drivers and an enhanced wheelchair assessment for all PHV drivers who drive a wheelchair accessible PHV;
- **Driver background checks/vetting:** to improve the vetting of PHV driver applicants, in particular for individuals who have lived for an extended period outside the UK or come to the UK from another country, including: self-declaration of criminal convictions by applicants; references from professionals or those of standing in the country of origin; or a minimum residency in the UK requirement;
- **PHV signage:** to introduce new signage in PHVs displaying customer contact information; new colour-coded PHV licence

The changes made to PHV licensing in 2016 can be found on the TfL website: [Changes to private hire regulation](#)

⁴² TfL press notice, "[TfL Board approves new plan to modernise London's private hire industry](#)", 18 March 2016

⁴³ all available on the [TfL website](#) [accessed 12 November 2018]

⁴⁴ the standard is explained further on the [Exam English](#) website [accessed 5 December 2017]

⁴⁵ "[Uber drops appeal over English language tests for London drivers](#)", *Sky News*, 19 February 2018

⁴⁶ TfL, [English language requirement](#) [accessed 12 November 2018]

discs to make it easier to identify PHVs with expired licence discs and to consider whether there should be new signage to increase the visibility of PHVs;

- **Driver ID card:** to display a version of the PHV driver's ID card on the nearside of the PHV on the front windscreen in the top corner and to consider whether the information contained on PHV driver ID cards should be more visible from outside of PHVs; and
- **Insurance:** to consider whether any changes are needed to the existing PHV hire or reward insurance requirements, including whether PHV drivers should be required to produce evidence that the PHV they use is covered by hire or reward insurance, and if they should what format the evidence should be in.⁴⁷

The consultation closed in June 2018.

Re-licensing of Uber, 2017-

On 22 September 2017 TfL announced that it had decided not to issue Uber with a new PHV operator's licence for the Greater London area. It stated that it had taken this decision on the following grounds:

TfL considers that Uber's approach and conduct demonstrate a lack of corporate responsibility in relation to a number of issues which have potential public safety and security implications. These include:

- Its approach to reporting serious criminal offences.
- Its approach to how medical certificates are obtained.
- Its approach to how Enhanced Disclosure and Barring Service (DBS) checks are obtained.
- Its approach to explaining the use of Greyball in London - software that could be used to block regulatory bodies from gaining full access to the app and prevent officials from undertaking regulatory or law enforcement duties.⁴⁸

Uber consequently indicated their intention to appeal the decision to a magistrate's court under [section 3\(7\)](#) and [section 25](#) of the *Private Hire Vehicles (London) Act 1998*, as amended. They filed their appeal on 13 October 2017.⁴⁹ TfL received support for its licensing decision from the taxi unions and others, while the Prime Minister, Theresa May, and others expressed concern about the potential impact on Londoners.⁵⁰

At a hearing on 18 December 2017 TfL disclosed its full reasons for refusing Uber a new licence. These included a charge that Uber had given TfL "materially false and misleading" information about its operating model, specifically that in a 2015 court case:

Uber had told the judge ... that its central computer systems, not individual drivers, handled all bookings and fares. It had told TfL the same thing many times. However, TfL's letter reveals that this year it asked the consultancy firm Deloitte to examine Uber's IT

⁴⁷ TfL, [Improving safety in Private Hire Vehicles \(PHVs\)](#), 26 March 2018

⁴⁸ TfL press notice, "[Licensing decision on Uber London Limited](#)", 22 September 2017

⁴⁹ "[Uber lodges appeal over London ban](#)", *BBC News*, 13 October 2017

⁵⁰ See, e.g. Unite press notice, "[Black cab drivers praise for mayor of London over Uber decision](#)", 22 September 2017 and "[Uber licence withdrawal disproportionate, says Theresa May](#)", *The Guardian*, 28 September 2017

19 Taxi and private hire vehicle licensing in England

systems. Deloitte found the company's central computers accepted a booking only after a driver had done so.

TfL's letter states that it believed that "the point is determinative and that Uber's current operating model is accordingly unlawful".

It says that, even if it is wrong about this, the "materially false and misleading" information it and the court had been given by Uber was one of three factors that made the company "not fit and proper" to hold an operator's licence.⁵¹

While waiting for the appeal, scheduled for June 2018, Uber was able to continue operating in London as normal. In March 2018 the company announced changes to its app in London, to make it clear that:

All bookings through our app in London and surrounding areas (such as at airports like Heathrow) will be accepted by Uber London, which means that only drivers licensed by Transport for London can carry out those trips.⁵²

There followed reports that in April 2018 Uber had requested an 18-month licence from TfL, rather than the maximum five-year licence. The *Evening Standard* reported that this was: "an attempt to show that it has changed its ways ... to prove Uber meets the requirements of being a fit and proper person to hold a licence".⁵³

Uber's appeal was held in June 2018 and resulted in the company being granted a 15-month licence. During the hearing, Uber conceded that its London operating licence should not have been renewed in 2017 over safety concerns but said there had been "wholesale change" since then.⁵⁴ In her final judgement on 26 June, the Chief Magistrate, Emma Arbuthnot, concluded:

Taking into account the new governance arrangements, I find that whilst ULL [Uber London Limited] was not a fit and proper person at the time of the Decision Letter and in the months that followed, it has provided evidence to this court that it is now a fit and proper person within the meaning of the Act. I grant a licence to ULL.

The length of the licence has been the subject of discussion. The rapid and very recent changes undergone by ULL lead me to conclude that a shorter period would enable TfL to test out the new arrangements. A 15 month licence will enable [TfL] to check the results obtained by the independent assurance procedure set out in condition number 4 whilst ensuring the public are kept safe.⁵⁵

⁵¹ "[Uber 'lied' in court case that allowed it to operate in London](#)", *The Sunday Times*, 24 December 2017

⁵² Uber press notice, "[Some changes to our app in London](#)", 14 March 2018

⁵³ "[Tech tracker round-up: Uber applies for 18-month London licence. Pixoneye raises £6 million](#)", *London Evening Standard*, 31 May 2018

⁵⁴ "[Uber tells court 'we needed to change' in London licence appeal](#)", *BBC News*, 25 June 2018; Uber's witness statements are all available on the [Hogan Lovells website](#) [accessed 12 November 2018]

⁵⁵ [ULL v TfL: Judgement](#), 26 June 2018, paras 40-41; the LTDA has raised concerns about the chief magistrate's handling of Uber cases and potential conflicts of interest; for details, see: [LTDA Letter to Lord Chief Justice of England and Wales](#), 20 August 2018

As indicated above, a [number of conditions](#) were attached to the grant of the new licence; these included matters relating to corporate governance and intra-group relationships and TfL notification obligations and enforcement.

Mayor Khan issued a statement in response to the relicensing:

Uber has been put on probation – their 15 month licence has a clear set of conditions that TfL will thoroughly monitor and enforce.

As a result of us standing up for Londoners, Uber has been forced to overhaul the way it operates not just in London but across the world, including completely changing its global governance structures and implementing new systems for reporting alleged crimes.⁵⁶

Taxi ranks

In February 2015 TfL published a [Taxi Rank Action Plan](#). The Plan set out plans to expand the network of 500 taxi ranks that TfL has appointed, with £600,000 funding to further increase the number of ranks by 20% by 2020. It also looked at helping suburban taxis by exploring the possibility of creating more Island Ranks - that allow suburban drivers to pick up passengers on the edge of their licensed area. TfL has established seven Island Ranks, including Finsbury Park, Putney Station and Garrett Lane, and plan to introduce more - informed by the strategic review of rank provision.⁵⁷

⁵⁶ Mayor of London press notice, "[Statement from Mayor of London on Uber hearing](#)", 26 June 2018

⁵⁷ TfL press notice, "[Mayor and TfL take action to boost taxi trade](#)", 25 February 2015

6. Enforcement

There are a number of offences associated with taxi and PHV licensing and operations, largely enforced by local licensing authorities. The Law Commission explained:

Under current law, responsibility for enforcement of the taxi and private hire licensing regime lies with the licensing authority that issued the relevant licence. In particular, authorities have powers to suspend or revoke licences, or to refuse to renew them.

Licensing authorities can also bring criminal charges against a suspected offender. Where breaches of licensing conditions also constitute offences, the police can also take enforcement action. Crucially, licensing officers are unable to undertake enforcement against vehicles, drivers and operators licensed in another area.⁵⁸

The Government's guidance to licensing authorities states that they should actively seek out operators who are evading the licensing system. It acknowledges that resources devoted by licensing authorities to enforcement will vary according to local circumstances (e.g. if there is a particular problem with touting). It recommends that:

... it is desirable to ensure that taxi and PHV enforcement effort is at least partly directed to the late-night period, when problems such as touting tend most often to arise [...] Some local licensing authorities employ taxi marshals in busy city centres where there are lots of hirings, again perhaps late at night, to help taxi drivers picking up, and would-be passengers queuing for taxis.⁵⁹

It also highlighted the change to the law in 2007 which permits licensing authorities to suspend or revoke a taxi or PHV driver's licence with immediate effect on safety grounds.⁶⁰

In its 2014 report, the Law Commission recommended that enforcement powers should be improved in the following areas:

- a new power for licensing officers to stop licensed vehicles;
- touting;
- power to impound vehicles;
- fixed penalty notices; and
- cross-border enforcement.⁶¹

The issue of cross-border hiring and its enforcement is examined in more detail below.

⁵⁸ op cit., [Taxi and Private Hire Services](#) (Law Com No 347), p180, para 13.2; touting was made a separate criminal offence under section 167 of the [Criminal Justice and Public Order Act 1994](#), as amended, and is enforceable by the police

⁵⁹ op cit., [Taxi and private hire vehicle licensing: best practice guidance](#), p20, paras 85-6

⁶⁰ section 52 of the [Road Safety Act 2006](#)

⁶¹ op cit., [Taxi and Private Hire Services](#) (Law Com No 347), p180, para 13.3

7. Notable reports on industry reform

7.1 Law Commission, May 2014

The Government has not yet issued its formal response to the report or indicated that it would bring forward the Commission's proposals, set out in their draft Bill.

Most recently, in July 2017 the then Minister, John Hayes, said that the DfT had set up a working group to consider any regulatory issues and remedies, including the Law Commission's recommendations, to report in 2018.⁶² This is the Task and Finish Group report, discussed in section 7.4, below.

In May 2012 the Law Commission published a consultation paper seeking views on a number of proposed reforms to how taxis and PHVs operate, designed broadly to deregulate the industry. The proposals included:

- national minimum safety standards;
- removing geographic operating restrictions on PHVs;
- bringing the regime in London into line with the rest of England and Wales;
- removing local quality restrictions;
- increasing enforcement powers; and
- removing licensing exemptions for special vehicles like wedding and funeral cars.⁶³

The Commission also sought views on miscellaneous items such as a new category of wheelchair accessible vehicles; improving the enforcement powers of licensing officers; and the idea of a new 'peak time' taxi licence that could only be used at particular times of day as decided by the licensing authority.⁶⁴

The Commission published its final report and a draft bill on 23 May 2014. The main recommendations in the report were as follows:

- **Retention of the two tier system** that distinguishes between taxis and PHVs on grounds of consumer choice and appropriateness (a single system would lead to over or under-regulation);
- **Significant changes to the legal distinction between taxis and PHVs** on the grounds that the current system relies heavily on the imprecise concept of 'plying for hire', which is not defined in statute and has become the subject of a body of case-law that is not wholly consistent;
- **Freeing up cross-border working for PHVs** so that operators would no longer be limited to using drivers and vehicles from their

⁶² [HC Deb 18 July 2017, cc271-2WH](#) and [Taxis: Written question – 108783](#), 24 October 2017

⁶³ Law Commission, [Reforming the law of taxi and private hire services: summary](#), May 2012, pp2-3, para 1.9

⁶⁴ *ibid.*, para 1.10

- own licensing area or restricted to only inviting or accepting bookings within that licensing area;
- **A single consolidated legislative framework** throughout England and Wales, including London, and applying to any vehicle carrying one or more passengers, where the vehicle and driver have been hired for that purpose, excluding transport provided as part of a wider service (e.g. hotel courtesy cars or by carers) and transport provided in connection with weddings and funerals. Stretch limousines, pedicabs and other novelty vehicles would be brought within private hire regulation;
- **Common national standards** for vehicles, drivers and dispatchers determined by the Secretary of State further to a statutory consultation with specified stakeholders including the trades, regulators and disability groups. Licensing authorities would retain responsibility for issuing licences and for enforcement and could supplement the national standards with local conditions for taxis only;
- **New criminal offences** specific to the trades involving the abolition of a number of out of date offences; replacing them with a more streamlined set of offences contained in the draft Bill;
- **Controls on transferability of licence plates** in areas introducing new quantity restrictions, though transfers would continue to be permitted in areas where quantity restrictions are currently in place;
- **Improved equality and accessibility** by requiring all drivers to undergo disability awareness training and giving licensing authorities the power to introduce a new duty to stop when hailed;
- **Enhanced powers for licensing officers**, including granting them powers to stop a licensed vehicle on a road, without the need for a police officer to be present; to impound vehicles for touting; and to issue a fixed penalty notice to a person whom they have reason to believe has breached any provision in national standards. These powers would also be exercisable in relation to out-of-area vehicles; and
- **A uniform hearings and appeals system** involving a standardised procedure for statutory appeals across England and Wales (including London) for all forms of licence and irrespective of whether the decision challenged is a refusal of an application for a licence, a suspension or a revocation. In line with the current London model, applicants should be able to require the licensing authority to reconsider its original decision, the second stage in the statutory appeal process being an appeal to the magistrates' court, with a further right of appeal to the Crown Court.⁶⁵

The Commission also published an impact assessment for the draft Bill. The monetised costs and benefits of the Commission's proposals given in the impact assessment were £10.99 million in total costs (NPV) and £252.87 million in total benefits (NPV). Costs included things like training of licensees and licensing officers; and displaying complaints information while benefits include things like reduced regulatory

⁶⁵ op cit., [Taxi and Private Hire Services](#) (Law Com No 347), pp4-10; a copy of the draft Bill can be found at the back of the report, beginning on p214

burden; reduced driver assaults; improved safety standards; and reduced enforcement costs.⁶⁶

As there were no plans to bring forward a Taxi Bill in the final session of the 2010 Parliament, the Government included three measures in what is now the *Deregulation Act 2015*.

Deregulation Act 2015

In March 2014 the Government published amendments to what became the [Deregulation Act 2015](#). The Act applies to England and Wales, but excludes London and Plymouth, where separate legislation exists. It argued that the:

... measures are among the Law Commission's recommendations and rather than undermining or duplicating the Law Commission process, these measures can be regarded as the first steps on a longer path of reform which will be continued in the event that a dedicated Taxi Bill is brought forward.⁶⁷

There were initially three measures in the Bill, but only two made it into the final Act:

- to set a **standard duration of three years for a taxi and PHV driver's licence and a standard duration of five years for a PHV operator's licence**. A lesser period may be specified only if appropriate in a particular case (section 10); and
- to allow a PHV operator to **sub-contract a PHV booking** to another operator who is licensed in a different licensing district outside London or based in London or in Scotland (section 11).

The third measure, which was removed from the Bill at Lords Committee stage in October 2014, would have allowed people who do not hold a PHV driver's licence to drive a licensed PHV when the vehicle was not being used as a PHV (for example, a licensed PHV driver's partner could use the vehicle for a family outing).

The Opposition and the industry had been vociferous in their opposition to this change, arguing that it could compromise passenger safety. The then Shadow Transport Spokesman, Richard Burden, explained:

... changing who is eligible to drive a private hire vehicle risks increasing the number of unlicensed drivers pretending to be legitimate [...there are] real safety risks that could accompany that. At the moment, we at least have the safeguard that only licensed drivers can drive PHVs, but the Government propose to remove that without giving councils additional enforcement powers. Currently, licensing officers have no power to stop moving vehicles, to prevent drivers from driving off or even to request a driver to reveal their identity.

The Minister will probably say, "Don't worry. It works in London, in the capital." As has been made clear, the situation in London is different. Since responsibility moved to Transport for London, I understand that on-street enforcement is conducted with a police

⁶⁶ Law Commission, [Taxi and private hire services](#) (IA No: LAWCOM0033), 23 May 2014

⁶⁷ Ministry of Justice, [Report on the implementation of Law Commission proposals](#), HC 1062, 12 March 2015, p16, para 70

presence, or the police are called on to act when necessary. We simply cannot assume that that would be the case elsewhere.⁶⁸

When she announced the Government's intention to remove the measure, Baroness Kramer said:

Its purpose was to allow the use of private hire vehicles for leisure purposes. Noble Lords will be aware that, outside London, a person who is licensed as a private hire vehicle driver cannot use the family car and therefore has to purchase a second car. At £20,000 or £30,000, or the lease equivalent, that is a barrier which denies people employment. It is an issue that we need to address at some point. It also means in particular that in a number of rural areas there is, frankly, a shortage of private hire cars and taxi services. Bringing in more of those vehicles and their services for local people could be helped by removing this barrier.

However, after the Government listened closely to issues raised about the way in which we have presented this clause, we have decided that listening, as we always do, is important, and concluded that although we can still see arguments for tackling this underlying problem—I think that there is general agreement on that—it would be better done as part of the package of measures recommended by the Law Commission in a broader reform of taxi and private hire vehicle licensing than through this clause.⁶⁹

As indicated above, section 11 of the 2015 Act makes changes to cross-border hiring, to allow a PHV operator to sub-contract a PHV booking to another operator who is licensed in a different licensing district outside London or based in London or in Scotland. The Minister at the time, Stephen Hammond, explained that the changes would:

... have a huge impact on the ability of operators to meet passenger needs and to grow their businesses, and it should help to make the passenger's experience much more convenient. In short, it is a liberating measure. It will allow the private hire trade to operate in the way that it sees fit, not just in the way that the current legislation dictates ... the onus is on the original operator, who accepts the booking and subsequently passes it on, to retain liability for the satisfactory completion of that journey. It is also clear there is a duty on the operator who takes the booking to keep a full record and to report the full record of that journey.⁷⁰

The changes came into force on 1 October 2015.⁷¹

7.2 Institute for Economic Affairs, November 2016

In November 2016 the IEA, a free market think tank, published a report calling for deregulation of the taxi market, particularly in London. It argued that:

- **Quantity restrictions** on taxis should be lifted so that consumers could benefit from shorter waiting times, lower fares and higher quality services;

⁶⁸ [HC Deb 29 April 2014, cc222-4WH](#)

⁶⁹ [HL Deb 21 October 2014, cc591-2GC](#)

⁷⁰ [HC Deb 29 April 2014, cc226-9WH](#)

⁷¹ via the [Deregulation Act 2015 \(Commencement No 1 and Transitional and Saving Provisions\) Order 2015](#) (SI 2015/994)

- **Technological changes** have rendered obsolete the distinction between taxis and PHVs and both should be treated in the same way going forward, by lifting restrictions in the taxi market;
- **Private regulation** such is preferable to statutory regulation as it allows rules to evolve according to the preferences and demands of consumers, and ensures bad regulation does not become entrenched; and
- Deregulation would foster more **competition** allowing drivers to compete with each other for business; passengers to compete for rides and apps to compete for users – again to the advantage of consumers and drivers.⁷²

Taking all this into account, it recommended the following priorities for the reform of taxi regulation in London:

- A one-tier system of regulation, as the old separation between taxis and PHVs is obsolete.
- A preference for private regulations, which have been successful in app-based services.
- The abolition of taxi privileges (such as their monopoly on ranks) so as to create a level-playing field for taxis and PHVs.
- Control given to the London Taxi Drivers' Association to regulate the quantity of black cabs and fare prices – just like private hire firms oversee their vehicles.
- Crucially, the LTDA should not have a monopoly – black cab drivers should be able to form competing brands within the trade.
- Statutory regulations should be limited to criminal background checks, monitoring of fraud or illegal activity, and reviews of the state of competition in the market.⁷³

7.3 All Party Parliamentary Group on taxis, 2017

On 12 July 2017 the All Party Parliamentary Group (APPG)⁷⁴ on taxis⁷⁵ published its report into the future of the taxi and PHV industry. The Group had requested written evidence and held three oral evidence sessions in February and March 2017.⁷⁶

The report focused on the taxi and PHV trade in London, which has undergone dramatic changes in the past five years, and drew across lessons for London for other cities in England. It also looked at England-

⁷² IEA press notice, "[Reform of London taxi regulations must be prioritised](#)", 4 November 2016; for the full report see: IEA, [Hire Authority: Turning statutory regulation into private regulation for the UK's taxi industry](#) (IEA Discussion Paper No.76), October 2016

⁷³ Ibid.

⁷⁴ APPGs are informal cross-party groups that have no official status within Parliament. They are run by and for Members of the Commons and Lords, though many choose to involve individuals and organisations from outside Parliament in their administration and activities [see: Parliament.uk, [All-Party Parliamentary Groups](#) [accessed 12 November 2018]]

⁷⁵ The APPG on taxis is chaired by Labour MP Wes Streeting, for full list of group officers see: [APPG on taxis](#) [accessed 12 November 2018]

⁷⁶ See: APPG on taxis, [Inquiry](#) [accessed 8 December 2017]

wide issues like cross-border hiring of PHVs. The Group's key recommendations were as follows.

For **Government**:

- Stop **cross-border hiring** by legislating to create a statutory definition of cross border hiring whereby a journey must "begin or end in the licensing authority where the licence was issued" and consult on new statutory guidance to contain a robust set of minimum licensing standards for all licensing authorities to impose;
- Establish a **national database** of registered taxi and PHV drivers and operators in conjunction with the DVLA and police;
- Legislate to provide a legally enforceable statutory definition of **plying for hire**;
- Consider granting the power to **cap the number of PHVs** to Transport for London, elected mayors and combined authorities;
- Legislate to require all PHV operators to have operators' **insurance** and all vehicles to have full hire and reward insurance in place at all times;
- Work with local authorities to ensure that there is adequate rapid charging infrastructure in place to support the use of new **electric taxis** and ensure that the car tax (vehicle excise duty) system does not penalise the purchase of new electric taxis.⁷⁷

For **London**:

- Transport for London (TfL) should review its mechanisms for **communicating** with both the taxi and PHV trades and look at how these could be improved. Both trades must also look to take a more constructive and open approach to engagement with TfL;
- Taxis should remain exempt from the ULEZ (Ultra Low Emission Zone) while PHVs come within the congestion **charging** regime; and
- Government should review the *Private Hire Vehicles (London) Act 1998* to ensure that it is for purpose in the digital age.⁷⁸

And for **local licensing authorities**:

- In conjunction with local police, produce a **code of conduct for the use of apps** by taxi and PHV drivers to sign up to in order to ensure safe driving; in the longer term Government should consider including a national code of conduct; and
- Take immediate steps to strengthen **PHV regulation** to ensure that all PHVs are **insured** and that their **drivers** have the skills and knowledge to ensure public safety.⁷⁹

The report was debated in Parliament on 18 July. Introducing the report, Wes Streeting said:

... there are two possible futures, both for the manufacturing of vehicles and manufacturing jobs, and for other areas of the taxi and private hire industry: a bright future or an existential crisis.

⁷⁷ APPG on taxis, [Lessons from London: the Future of the UK taxi trade](#), July 2017, pp5-6

⁷⁸ Ibid., p6

⁷⁹ Ibid., p7

The Government have a clear role in ensuring that we head towards a bright future rather than a bleak future.

[...] Action by Ministers is long overdue. The debate about the future of the taxi trade has often been unfairly characterised as a debate between those who support **competition** and innovation and those who want to cling to the past. That is a lazy analysis [... many] taxi drivers ... are not afraid of innovation or competition; increasing numbers of drivers are embracing new platforms such as Gett and mytaxi. Many cab drivers also accepted card payments long before it was mandatory, and a great many more are keen to get behind the wheel of the new generation of carbon neutral, electric-capable taxis to play their part in improving air quality and protecting our environment.

However, ... taxi drivers find it increasingly difficult to compete with both hands tied behind their backs in a changing marketplace. Our challenge now is to make sure that the trade enjoys a bright future as well as a proud history. I strongly believe that, with smart and effective regulation and new national standards, the taxi and private hire industries can succeed ... many small businessmen and businesswomen and their families are counting on Ministers to act.⁸⁰

Many of the APPG's recommendations were echoed in a December 2017 report from the Urban Transport Group.⁸¹

7.4 Task and Finish Group, September 2018

As indicated above, in July 2017 the Government announced that in response to various reports into the future of the taxi and PHV industry and concerns about certain aspects of its operation, it had established a working party to look at licensing.⁸²

The DfT published the report of this 'Task and Finish Group' on 24 September 2018. The group was chaired by [Professor Mohammed Abdel-Haq](#) and included representatives from TfL, the Suzy Lamplugh Trust, the Local Government Association, the Competition and Markets Authority, the Licensed Taxi Drivers' Association, the GMB union, the National Private Hire and Taxi Association, and the Licensed Private Hire Car Association. In his introduction to the report Prof. Abdel-Haq acknowledged that:

Members of the Group have strongly held, sometimes polar opposite opinions and, while this means that it has not always been possible to reach a consensus, I am of no doubt that all have the best interests of passengers and the trade foremost in their thoughts.⁸³

Generally, he stated that there was "no single solution to the challenges facing the taxi and PHV sector" and that in light of this, "each aspect of

⁸⁰ [HC Deb 18 July 2017, cc248, 255-6WH](#)

⁸¹ UTG press notice, "[As taxi and PHV numbers surge, new report calls for more strategic policy approach](#)", 1 December 2017

⁸² [HC Deb 18 July 2017, cc271-2WH](#)

⁸³ Task and Finish Group for DfT, [Taxi and Private Hire Vehicle Licensing: Steps towards a safer and more robust system](#), 24 September 2018, p5

this study and the consequent recommendation is dependent on others". He said that the aim of the report was:

... to produce a holistic ecosystem and solution to the problems it was devised to address and, as a result, to set out a comprehensive platform for the changes necessary to protect and promote the public interests in the common good.⁸⁴

He concluded that the onus now fell on ministers to:

... take the ideas of the report further and to begin to craft the legislation that it will, in some instances, require. In other instances, I trust that Parliament and the Department will lead the cultural change which is necessary to ensure that passengers, workers, operators, and neighbouring authorities are treated fairly. I look forward to the Government's prompt response to this report in order to maintain the momentum for improvement.⁸⁵

In particular, he cautioned that "undue delay would risk public safety".⁸⁶

The report's recommendations echoed to some degree those of the Law Commission and the APPG on taxis before it, though not on all issues. There were 34 recommendations which, in summary, proposed the following:

- Taxi and PHV **legislation** should be revised as a matter of urgency;
- Government should legislate for **national minimum standards** for taxi and PHV licensing for drivers, vehicles and operators and local licensing authorities should have appropriate new powers of enforcement;
- DfT should urgently update its **Best Practice Guidance** and as a matter of urgency press ahead with consultation on a draft of its **Statutory Guidance** to local licensing authorities;
- In the short-term, large urban areas, notably those that have **metro mayors**, should emulate the model of licensing in London and be combined into one licensing area. In **non-metropolitan areas** collaboration and joint working between smaller authorities should become the norm;
- Government should introduce a statutory definition of both **'plying for hire'** and 'pre-booked' in order to maintain the two-tier system;
- Government should require companies that act as intermediaries between passengers and taxi drivers to meet the same licensing requirements and obligations as PHV operators;
- Government and licensing authorities should 'level the playing field' by mitigating additional costs faced by the trade where a wider social benefit is provided – for example, where a wheelchair accessible and/or zero emission capable vehicle is made available;
- Government should legislate to allow local licensing authorities, where a need is proven through a public interest test, to set a **cap on the number of taxi and PHVs** they license;

⁸⁴ Ibid., p5

⁸⁵ Ibid., p6

⁸⁶ Ibid., p6

- All licensing authorities should use their existing powers to make it a condition of licensing that drivers cooperate with requests from authorised compliance officers in other areas;
- Government should legislate that all taxi and PHV journeys should **start and/or end within the area** for which the driver, vehicle and operator are licensed and local licensing authorities should have appropriate new powers of enforcement;
- Licensing authorities should ensure that their licensing, administration and enforcement functions are adequately resourced, setting fees at an appropriate level to enable this;
- Legislation should be introduced by the Government as a matter of urgency to enable **TfL to regulate the operation of pedicabs** in London;
- **Fixed Penalty Notices** should be available for minor taxi and PHV compliance failings;
- All **ridesharing** services should explicitly gain the informed consent of passengers at the time of a booking and commencement of a journey;
- All licensed vehicles must be fitted with **CCTV** (visual and audio) subject to strict data protection measures, with cost-mitigation measure for small businesses;
- National standards must set requirements to assist the public in distinguishing between taxis, PHVs and unlicensed vehicles. These should require drivers to have on display relevant details to assist the passengers in identifying that they are appropriately licensed;
- All drivers must be subject to **enhanced DBS and barred lists checks**;
- Government must issue guidance, as a matter of urgency, that clearly specifies convictions that it considers should be **grounds for refusal or revocation of driver licences** and the period for which these exclusions should apply; the Quality Assurance Framework and Common Law Police Disclosure Provisions must be reviewed; and all licensing authorities must use the National Anti-Fraud Network (NAFN) register of drivers who have been refused or had revoked taxi or PHV driver licence;
- As a matter of urgency Government must establish a mandatory **national database** of all licensed taxi and PHV drivers, vehicles and operators, to support stronger enforcement;
- Licensing authorities must use their existing powers to require all drivers to undertake **safeguarding/child sexual abuse and exploitation awareness training**;
- All individuals involved in the licensing decision making process (officials and councillors) must be obliged to undertake appropriate training;
- Government must review the assessment process of passenger carrying vehicle (PCV) licensed drivers and/or consideration of the appropriate boundary between taxis/PHVs and public service vehicles (PSVs);
- Licensing authorities must require that all drivers are able to **communicate in English** orally and in writing to a standard that is required to fulfil their duties, including in emergency and other challenging situations;

31 Taxi and private hire vehicle licensing in England

- All licensing authorities should use their existing powers to require that the taxi and PHV drivers they license undergo **disability quality and awareness training**;
- Licensing authorities that have low levels of **wheelchair accessible vehicles (WAVs)** in their taxi and PHV fleet should ascertain if there is unmet demand for these vehicles and licensing authorities which have not already done so should set up lists of wheelchair accessible vehicles (WAVs) in compliance with the Equality Act 2010;
- Licensing authorities should use their existing enforcement powers to take strong action where disability access refusals are reported, to deter future cases;
- Licensing authorities should take into account any evidence of a person or business flouting **employment law** as part of their test of whether that person or business is 'fit and proper' to be a PHV or taxi operator; and
- Government should urgently review the evidence and case for restricting the number of hours that taxi and PHV drivers can drive.⁸⁷

Some of these are explored in more detail in section 8, below.

The Government has yet to formally respond to the report. Most recently on 15 October the Minister, Nus Ghani, said: "Ministers are considering the recommendations made by the Chair of the Task and Finish Group on Taxi and Private Hire Vehicle Licensing, a Government response will be issued in due course. Legislation to reform the regulation of taxis and private hire vehicles will be brought forward if required".⁸⁸

There will be a debate in Parliament on the report on 14 November 2018.

⁸⁷ Ibid., pp7-12

⁸⁸ [Taxis: Written question – 177363](#), 15 October 2018

8. Issues

8.1 Capping licence numbers

Numbers of licensed operators, vehicles and drivers

The Government publishes taxi and PHV statistics for England [every two years](#). The most recent figures cover the year to March 2017 and were published in September 2017. The key figures were as follows:

- compared to 2015 the total number of licensed taxis and PHVs in England increased by 16% to 281,000;
- 73% of all licensed vehicles in England were PHVs;
- 39% of the total number of licensed taxis and PHVs in England were in London;
- 58% of licensed taxis in England were wheelchair accessible; and
- there were 356,300 taxi or PHV driver licences in England⁸⁹

Table 1, below, shows that growth is being largely driven by increases in PHV licences in London – the number of PHV drivers in London increased by almost 50% on 2015. However, the number of licensed PHV operators in London fell by almost 20% over the same period, suggesting consolidation of the industry and dominance by a smaller number of companies with larger numbers of drivers.⁹⁰

Table 1: Summary of 2017 taxi and private hire vehicle licensing figures compared with 2015

	London		England outside London		England	
	March 2017 figure in thousands and change compared to March 2015					
Total licensed vehicles	108.7	27.5%	172.3	9.7%	281.0	16.0%
Taxis	21.3	-5.3%	54.2	1.3%	75.5	-0.7%
wheelchair accessible taxis	21.3	-5.3%	22.2	1.4%	43.5	-2.0%
Private Hire Vehicles (PHVs)	87.4	39.3%	118.1	14.1%	205.5	23.6%
Licensed PHV operators	2.4	-19.2%	12.1	2.9%	14.6	-1.6%
Total licensed drivers	142.2	36.8%	214.1	10.7%	356.3	19.9%
Taxi-only licences	24.5	-3.0%	35.8	-1.7%	60.3	-2.2%
PHV-only licences	117.7	49.6%	99.3	16.2%	217.0	32.2%
Dual licences	0.0	0.0%	78.9	10.6%	78.9	10.6%

Historical debates about local taxi caps

Local licensing authorities have the power to limit the number of taxis they licence in their area, for reasons of managing the supply.

Successive governments have looked at whether it would be right to remove the ability of licensing authorities to impose such restrictions. Following an investigation by the Office of Fair Trading (OFT) in 2003 the Labour Government opted not to abolish local taxi caps (quantity restrictions). More recently, the Law Commission stated that it would not recommend abolishing these restrictions but that licences in areas where *new* restrictions were imposed should not be tradable.

⁸⁹ DfT, [Taxi and Private Hire Vehicle Statistics: England 2017](#), 7 September 2017, p1

⁹⁰ Ibid., p2

Briefly, in August 2002 the OFT announced its intention to study the taxi market.⁹¹ The main focus of the inquiry was the effects of licence restrictions imposed by many local authorities on the supply of licensed taxis. The OFT published their final report in November 2003. It concluded that the overall quality of taxi services could be enhanced by reforming elements of the regulatory framework, including lifting quantity restrictions, as they reduced availability and lowered the quality of service to the public.⁹²

The Commons Transport Select Committee published a report on taxi licensing and the OFT report in February 2004. It concluded that the OFT was not able to support its chief recommendation on quantity restrictions with the evidence presented in its report and that it did not look sufficiently at the interrelationship between taxis and PHVs.⁹³ The Labour Government announced in March 2004 that, on reflection, it would leave in place the ability of licensing authorities to impose quantity restrictions. They would, however, have to publish their reasons for restricting the number of licences issued.⁹⁴

In its 2014 report the Law Commission concluded that the ability of local authorities to impose quantity restrictions on licensed taxis should remain, but that there should be controls on the transferability of licence plates in areas introducing new quantity restrictions. Transfers would continue to be permitted in areas where quantity restrictions were already in place.⁹⁵

Recent calls for PHV caps

Unlike with taxis, local authorities cannot limit PHV numbers – this is most obviously an issue in London (see data, above). Those who want to see local authorities given powers to restrict PHV numbers argue that the market, particularly in London, is over-saturated and enables bigger operators to use their pricing to drive out smaller operators. So what might look like consumer choice in the beginning ends up in a monopoly in which one or two large operators can raise prices with impunity.

There are other reasons why some have called for a cap. For example, the APPG on taxis cited grounds of increased congestion and pollution in London. To address this, its July 2017 report called for TfL and the Mayor of London to have the power to cap PHV numbers (and for the same powers to be available to other mayors and Combined Authorities should they request it).⁹⁶

Further details of the OFT and Law Commission's work on these issues can be found in HC Library briefing paper [CBP 2772](#).

⁹¹ The OFT was folded into the new Competition and Markets Authority (CMA) in 2014

⁹² OFT, *The regulation of licensed taxi and PHV services in the UK*, OFT 676, 11 November 2003, para 1.7

⁹³ Transport Committee, *The regulation of taxis and private hire vehicle services in the UK* (third report of session 2003-04), HC 251, 4 February 2004, paras 56-59

⁹⁴ [HC Deb 18 March 2004, cc33-35WS](#)

⁹⁵ Op cit., *Taxi and Private Hire Services* (Law Com No 347), pp8-9; for full details see chapter 11

⁹⁶ Op cit., *Lessons from London: the Future of the UK taxi trade*, pp13-14

In its December 2017 report the Urban Transport Group (UTG) went into some detail about the impacts of higher PHV numbers on congestion and air quality. On congestion it stated that:

Depending on local circumstances taxis and PHVs can both contribute to congestion, by increasing the numbers of vehicles on already congested streets, but also help to alleviate congestion, through supporting the public transport network and reducing the need for individuals to own and use private cars.⁹⁷

And on air quality and carbon emissions it stated:

The evidence on the extent to which growth in PHV traffic ... is contributing to congestion is still emerging. The impacts are also likely to be different in different cities. Some [operators] argue that they primarily benefit travellers outside peak times and for journeys where public transport is not so readily available. Others have argued that, taking the long view, increased access to taxis, PHVs and new business models for shared mobility, could help to reduce car ownership and increase public transport use, which would have benefits for congestion...

However a number of city authorities, which have experienced rapid growth in PHV traffic, have expressed concern about the impact on congestion.

[For example] KMPG argue that the large increase in the number of PHVs in London has increased congestion ... In London, one in four vehicles entering the congestion charging zone is now a taxi or PHV ... Taxis and PHVs in London have historically been exempt from congestion charging in the city, however some, including the taxi trade, have argued that PHVs should now be subject to the charge.⁹⁸

UTG concluded that: "Given the rapid growth in PH[V] numbers over recent years, and associated challenges such as congestion, allowing authorities to place appropriate limits on the numbers of PH[V] licences issued would give greater potential to manage growth in the sector and contribute to wider policy goals".⁹⁹

Not everyone agrees with this analysis. In their October 2016 report on the taxi industry for the IEA, Kristian Niemietz and Diego Zuluaga argued that there "was never a sound justification" for quantity restrictions and that not only should there be no restrictions imposed on PHVs but that taxi caps should be abolished. They stated that:

Where they have been abolished – such as in New Zealand, Ireland and parts of the UK – consumers have generally benefitted from shorter waiting times, lower fares, higher quality and a greater diversification of the taxi market. Rather than trying to suppress the growth of new business models in the PHV sector, we should derestrict the taxi market.¹⁰⁰

⁹⁷ UTG, [Taxi! Issues and Options for City Region Taxi and Private Hire Vehicle Policy](#), 1 December 2017, para 4.5

⁹⁸ Ibid., paras 4.7-4.9

⁹⁹ Ibid., para 6.4

¹⁰⁰ Op cit., [Hire Authority: Turning statutory regulation into private regulation for the UK's taxi industry](#) (IEA Discussion Paper No.76), p9

They also argued that in a quantity-restricted taxi market, “fares can be expected to be higher than they would otherwise be, representing a redistribution from consumers to licence holders”:

The exact incidence will differ from country to country, but generally, low-income consumers, who are less likely to own a car, have been found to spend a larger proportion of their budgets on taxi services than other income groups ... Moreover, waiting times for a taxi will be longer in a quantity-restricted market.¹⁰¹

In its September 2018 report the Task and Finish Group stated that granting licensing authorities the power to cap the number of PHVs “could give them an extra tool to help reduce levels of congestion in areas where high numbers of PHVs operate and thereby address in part air quality issues”.¹⁰²

However, it also argued that the use of a cap “would require a public interest approach”, not merely the ‘unmet demand’ test currently applied to allow the limiting of taxi numbers. It explained:

There are potential drawbacks to licence restriction, including administrative burden, restriction of competition and restriction of work opportunities for drivers. Carrying out a clear, well evidenced and considered public interest test before a numbers restriction can be applied would enable an authority to weigh up those factors and make a balanced decision.¹⁰³

The Competition and Markets (CMA), which was represented on the group, did not agree with the recommendation in this regard and said in its statement in the annex to the report that “a numerical cap on the number of providers of taxi/PHV services risks having the effect of artificially and unnecessarily constraining competition, to the detriment of passengers – depriving them of the best prospect of high service standards, value for money and innovation in service provision”.¹⁰⁴ In light of this, the CMA urged that if there were to be such a cap, any required public interest test should include “the effects on competition, including on service standards and affordability of fares, bearing in mind that the absence of affordable fares can induce people to travel by less safe modes of transport”.¹⁰⁵

8.2 PHVs cross-border working

There are long-standing questions about the cross-border working of PHVs: the extent to which it exists, its desirability, how local authorities can properly enforce it and whether the law should be changed to prevent it.

¹⁰¹ Ibid., p19

¹⁰² Op cit., [Taxi and Private Hire Vehicle Licensing: Steps towards a safer and more robust system](#), para 3.39

¹⁰³ Ibid., para 3.40

¹⁰⁴ Ibid., p56

¹⁰⁵ Ibid., p57

In its 2014 report, the Law Commission explained that in England and Wales¹⁰⁶ under current law, a licensed PHV driver can undertake journeys starting or ending anywhere in England and Wales and that operators are allowed to accept jobs where the pick-up and drop off are both outside the operator's licensing district.¹⁰⁷ By way of example, Knowsley Borough Council had changed its 'intended use' policy to require PHV drivers who are licensed in Knowsley to work predominantly in Knowsley. Uber, and Delta Merseyside Limited brought a judicial review of that resolution on the ground that the council was not empowered to insist that its licensed PHV drivers operate within Knowsley, predominantly or otherwise. The case was heard in February 2018 and judge ruled that Knowsley's PHV driver's policy was unlawful.¹⁰⁸

Legislation relating to PHV cross-border hiring

Section 75(2) of the *Local Government (Miscellaneous Provisions) Act 1976* disapplies the provisions in section 46(1) of the same act, thus having the effect of allowing PHVs to operate in the areas where they are not licensed.

Section 75(2B) and section 6(6)(b) of the *Private Hire Vehicles (London) Act 1998* provide for drivers and vehicles licensed in London to pick up and drop off anywhere in England and Wales and vice versa.

The legislation in London goes further, in sections 6(7) and 12(7) of the 1998 Act it exempts journeys beginning outside London and in areas not subject to the 1976 Act (which was originally adoptive) from the requirement for a London PHV driver and vehicle licences.

In terms of case law, see in particular *Adur District Council v Fry* [1997] RTR 257.¹⁰⁹

The Law Commission had very different views about what should be done with regards PHV cross-border working than the taxi industry and others who have reported on this issue since.

Drivers, vehicles and operators must be licensed in the same area and operators can only invite and accept bookings within that licensing area. The Commission argued that "this hampers them expanding their business to have offices in neighbouring areas, and is increasingly difficult to police given the rise in internet bookings".¹¹⁰ The Commission therefore recommended 'freeing up' cross-border working for PHV services:

Operators should no longer be limited to using drivers and vehicles from their own licensing area; nor should they be restricted to only inviting or accepting bookings within that licensing area. Under our recommended regulatory framework, licensing district boundaries lose much of their importance in relation to private hire vehicles. Although local authorities will continue to administer licences applied for in their area, they will do so on the basis of national standards, which they will have no discretion to vary. Once licensed, providers will be able to work

¹⁰⁶ As explained in section 3.1, above, in Scotland it is an offence for PHVs to pick up passengers outside their licensed area

¹⁰⁷ Op cit., *Taxi and Private Hire Services* (Law Com No 347), para 7.52

¹⁰⁸ Licensing Lawyer, *Knowsley Judicial Review* [accessed 12 November 2018]

¹⁰⁹ Ibid, footnote 18

¹¹⁰ Ibid., para 1.23

across England and Wales and subject to enforcement action by officers of any licensing authority.¹¹¹

This was accompanied by recommendations about changes to enforcement powers. Specifically that formal procedures for cross-border cooperation between licensing authorities be established, including “a power for the licensing authority in whose area the infraction occurred to propose an appropriate sanction to the home authority as well as to suspend a licence temporarily”.¹¹²

The APPG on taxis disagreed with this approach. In its July 2017 report, it said that the Government should legislate to create a statutory definition of ‘cross border hiring’ whereby a journey must “begin or end in the licensing authority where the licence was issued” and that this should be supported by statutory England-wide guidance setting out minimum licensing standards.¹¹³ It stated:

We believe that the Government should, at the earliest opportunity, consult on statutory guidance for taxi and PHV licensing and the proposed guidance should set out a robust set of minimum licensing standards for all licensing authorities to impose. To stop the exploitation of cross border hiring, the Government should also consider legislating to create a statutory definition of cross border hiring whereby a journey must “begin or end in the licensing authority”.¹¹⁴

In its December 2017 report the Urban Transport Group argued that local licensing officers should be able to undertake enforcement action against any taxi or PHV operating within their authority area, no matter where the vehicle is licensed and, in the longer term:

Introducing a requirement that taxis and PH journeys start or end in the area for which the driver and vehicle are licensed, in order to reduce problematic cross-border hiring (requested by TfL as part of the taxi and PH action plan, TfL, 2016c). Under the current legislation, cross-border hiring creates challenges for enforcement, as well as undermining the local licensing regime which may have more stringent vehicle and driver licensing requirements.¹¹⁵

These calls are supported by unions and the taxi industry.¹¹⁶

In its September 2018 report the Task and Finish Group also agreed with these proposals and recommended that the Government legislate to provide that all taxi and PHV journeys should start and/or end within the area for which the driver, vehicle and operator are licensed.¹¹⁷

¹¹¹ Ibid., para 1.24

¹¹² Ibid., para 13.86; the Commission commented that in consultation “this suggestion proved controversial, but a majority of consultees were in favour” [para 13.88]

¹¹³ Op cit., [Lessons from London: the Future of the UK taxi trade](#), rec 1, p5

¹¹⁴ Ibid., p13

¹¹⁵ Op cit., [Taxi! Issues and Options for City Region Taxi and Private Hire Vehicle Policy](#), para 6.4 [emphasis in original]

¹¹⁶ See, e.g. “[Uber exploiting loophole to 'spread tentacles' across UK, union says](#)”, *The Guardian*, 17 February 2017; “[Unite and TfL meet to talk cross border mayhem](#)”, *Cab Trade News*, 23 February 2017; and a number of articles on the [National Taxi Association website](#)

¹¹⁷ Op cit., [Taxi and Private Hire Vehicle Licensing: Steps towards a safer and more robust system](#), p28, rec. 11

Consideration should be given to specialist services such as chauffeur and disability transport services to continue to operate cross-border and operators should not be restricted from applying for and holding licences with multiple authorities.¹¹⁸

It also cautioned that the success of a law and would depend on “careful further work, to reduce the risk of causing damage legitimate business models and passenger choice”.¹¹⁹ In particular, it warned against:

The potential negative aspects of the proposed restriction would be greatest in inner-city areas which have many boundaries. Without [a] reduction of licensing authorities ... and the resulting larger areas, all parties would be detrimentally affected. With small geographic areas and more borders, passengers in these areas may no longer be able to use their favoured PHV operator even if these were the closest but simply as a consequence of being the wrong-side one of the many boundaries.

Rationalising the number of licensing areas in these locations would have benefits in its own right, but would also significantly reduce the negative impacts of a start/end point restriction.¹²⁰

8.3 Accessibility

There is no national requirement to make a proportion of taxi or PHV fleets accessible. This is a matter for individual local licensing authorities. Individual councils can – and do – require all or a proportion of vehicles licensed by that authority to be accessible. For example, since 1 January 2000 every taxi operating in London has been required to take wheelchairs and all taxis operating in Edinburgh have been required to be wheelchair accessible since 1 January 1997. In 2017 62% of all licensing authorities in England required wheelchair accessible vehicles in all or part of their taxi fleet.¹²¹

The latest figures show that in England 58% of all taxis were wheelchair accessible in 2017. This was the same as in 2015. In comparison 2.2% of PHVs were wheelchair accessible in 2017, similar to the proportion in 2015.¹²² There is a significant difference in the availability of accessible vehicles between London and other metropolitan areas on the one hand and the rest of the country on the other:

- In England outside London, metropolitan areas had 83% wheelchair accessible taxis;
- in other urban areas 36% of taxis were wheelchair accessible; and
- in rural areas only 15% of taxis were wheelchair accessible.¹²³

However, questions of accessibility are not only limited to vehicles, but also relate to issues such as taking bookings, ensuring drivers are

¹¹⁸ Ibid., p28, recc. 11

¹¹⁹ Ibid., para 3.52

¹²⁰ Ibid., paras 3.52-3

¹²¹ Op cit., [Taxi and Private Hire Vehicle Statistics: England 2017](#), p3

¹²² Ibid., p3

¹²³ Ibid., p3

properly trained and treat disabled people equally, carrying guide dogs and not making extra charges.

Legislation

The consolidated legislative framework on transport and disability is set out in Part 12 of the [Equality Act 2010](#).¹²⁴ The 2010 Act made some fundamental changes to the service that disabled passengers can expect from taxi and PHV drivers. There was a long delay by successive governments about bringing some of these provisions (which date back to earlier legislation) into force.¹²⁵

Finally, in April 2017 the Government brought into force sections 165 and 167 of the 2010 Act (via the *Equality Act 2010 (Commencement No. 12) Order 2017* ([SI 2017/107](#))). Together, these sections provide that drivers of 'designated' taxis and PHVs, which are hired by or for a disabled person who is in a wheelchair, or by another person who wishes to be accompanied by a disabled person who is in a wheelchair, must:

- 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; and
- to give the passenger such mobility assistance as is reasonably required.

A driver of a designated taxi or PHV commits an offence by failing to comply with a duty imposed on the driver by this legislation and is liable on summary conviction to a fine not exceeding £1,000.

The Government issued guidance on the implementation of sections 165 and 167 in February 2017. The guidance is intended to help licensing authorities to:

- maintain lists of vehicles designated as wheelchair accessible;
- handle applications from drivers who are medically unfit to perform the duties required of them; and
- enforce the requirements.¹²⁶

Under sections 168-171 of the 2010 Act taxis and PHVs have a duty to accept bookings for and to carry passengers with assistance dogs, and not make an extra charge for doing so.¹²⁷ However, research published by Guide Dogs for the Blind in May 2016 found that prosecutions are rare and fines are low, with some licensing authorities reporting fines as

¹²⁴ the initial legislative framework was set out in the [Disability Discrimination Act 1995](#), as amended by the [Disability Discrimination Act 2005](#), and the Regulations made under it

¹²⁵ See, in particular as it relates to section 165, which was a replication of section 36 of the 1995 Act: DfT, [Consultation on Improving Access to Taxis](#), February 2009; DfT, [Equality Act 2010 – Taxis and Private Hire Vehicles: Provisions coming into effect in October 2010](#), September 2010 [HC DEP 2010-1717] and [HC Deb 16 July 2012, c495W](#)

¹²⁶ DfT, [Access for wheelchair users to taxis and private hire vehicles](#), February 2017

¹²⁷ For more information see section 2 of HC Library briefing paper [CBP 7668](#)

low as £50 to £100.¹²⁸ They are currently running a campaign based on survey findings that 42% of assistance dog owners were turned away by a taxi or minicab in the last year because of their dog.¹²⁹

Finally, section 29 of the 2010 Act prohibits discrimination in the provision of services. Section 29(2)(a) states that a service provider must not discriminate against a person “as to the terms on which” a service is provided. Discrimination may be either direct or indirect. Direct discrimination is defined in section 13 as a person treating another less favourably than others “because of” a protected characteristic. Disability is a protected characteristic (section 6).¹³⁰

Future changes?

As indicated above, in May 2014 the Law Commission published the outcome of its review into taxi and PHV licensing law. One of the areas it looked at was accessibility. It made the following recommendations:

- taxi and private hire drivers be required to undergo **disability awareness training** of a standard set by the Secretary of State;
- the Secretary of State require information on how to **complain** about taxi and PHV services to be displayed in taxi and PHVs;
- local licensing authorities should **display complaint information** in offices, libraries and on websites;
- licensing authorities conduct an **accessibility review** at three year intervals;
- the Secretary of State require holders of taxi and private hire driver licences and dispatcher licences to **comply with the Equality Act 2010 as a condition of the licence** [to make enforcement easier];
- licensing authorities should reconsider **rank design** to ensure compliance with the 2010 Act;
- licensing conditions should provide that information about the licensing authority and local operators should be provided in **alternative formats**, as well as information about the types of vehicle available in their area; and
- the Secretary of State 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.¹³¹

The July 2018 *Inclusive Transport Strategy* stated that by end of 2019 the DfT would:

... publish for consultation revised best practice guidance to support local licensing authorities (LLAs) to use their existing powers more effectively. In particular we will recommend that authorities require taxi and private hire vehicle (PHV) drivers to complete disability awareness and equality training, make it simple to report discrimination and take robust action against

¹²⁸ Guide Dogs press notice, “[Guide Dog owners driven to despair by taxi and minicab drivers who illegally say no to their dog](#)”, 21 May 2016

¹²⁹ Guide Dogs, [Access All Areas](#) [accessed 14 December 2017]

¹³⁰ Individuals can pursue these issues further with regards to specific local cases by obtaining further advice from the Equality Advisory and Support Service (EASS): its website has [an overview of the assistance it provides](#), and [contact details](#)

¹³¹ op cit., [Taxi and Private Hire Services](#) (Law Com No 347), chapter 12

drivers alleged to have discriminated against disabled passengers [... and]

Take steps to understand why taxi and PHV drivers continue to refuse to transport assistance dogs [...] We will undertake research to identify why the risk of fines and the loss of a driver's licence appear insufficient in some circumstances to prevent them from discriminating against assistance dog owners. We will use evidence from this work to support any further action that we may take in this area to ensure that assistance dog owners are able to travel by taxi and PHV free from the fear of discrimination.¹³²

It also said that by autumn 2018 it would write to all local licensing authorities "stressing the importance of supporting an inclusive taxi and PHV fleet" and asking those authorities who had not already done so to publish lists of vehicles designated as wheelchair accessible under section 167 of the 2010 Act.¹³³

In its September 2018 report the Task and Finish Group recommended that:

All licensing authorities should use their existing powers to require that their taxi and PHV drivers undergo disability equality and awareness and equality training. This should ultimately be mandated as part of national minimum standards...

Licensing authorities that have low levels of wheelchair accessible vehicles (WAVs) in their taxi and PHV fleet should ascertain if there is unmet demand for these vehicles. In areas with unmet demand licensing authorities should consider how existing powers could be used to address this, including making it mandatory to have a minimum number of their fleet that are WAVs. As a matter of urgency, the Government's Best Practice Guidance should be revised to make appropriate recommendations to support this objective ...

Licensing authorities which have not already done so should set up lists of wheelchair accessible vehicles (WAVs) in compliance with s.167 of the Equality Act 2010, to ensure that passengers receive the protections which this provides ... [and]

Licensing authorities should use their existing enforcement powers to take strong action where disability access refusals are reported, to deter future cases. They should also ensure their systems and processes make it as easy as possible to report disability access refusals.¹³⁴

8.4 Passenger safety

In recent years, as the numbers of PHVs on the roads, particularly in London, have increased so sharply (see section 8.1, above) there have been growing concerns about the robustness of driver checks and the attendant safety of passengers, particularly those who are vulnerable, travelling alone and late at night.

¹³² Op cit., [The Inclusive Transport Strategy: Achieving Equal Access for Disabled People](#), para 5.6

¹³³ Ibid., para 8.36

¹³⁴ Op cit., [Taxi and Private Hire Vehicle Licensing: Steps towards a safer and more robust system](#), pp40-2, reccs. 29-32

Comprehensive data regarding the number of sexual assaults (or other crimes) committed by taxi/PHV drivers are not available. Some information is in the public domain through Freedom of Information requests to police forces, but this is neither comprehensive nor consistent.¹³⁵ TfL publishes data for London dating back to 2002, listing all sexual offences recorded by police where the perpetrator was reported, or thought to be a taxi/PHV driver. In many cases no suspect was identified, so verification of their status is not possible. This shows that the overall level of offences has fallen from 189 to 164, though the 2016 figure represents an increase from 136 in 2015.¹³⁶

As stated in sections 4 and 5, above, licensing authorities have to satisfy themselves that prospective drivers of taxis and PHVs are 'fit and proper' persons to drive a vehicle. This usually involves a criminal records check. For many years now, the Department for Transport and the Home Office have issued guidance to licensing authorities outside London on licensing taxi and PHV drivers with criminal records.¹³⁷ The most recent guidance, issued in March 2010, states:

In considering an individual's criminal record, local licensing authorities will want to consider each case on its merits, but they should take a particularly cautious view of any offences involving violence, and especially sexual attack. In order to achieve consistency, and thus avoid the risk of successful legal challenge, local authorities will doubtless want to have a clear policy for the consideration of criminal records, for example the number of years they will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.¹³⁸

In 2017 the Government took powers to issue new statutory guidance on the protection of children and vulnerable adults with regards to taxi and PHV services.¹³⁹ The factsheet accompanying this provision, published with the Bill, stated that:

In recent years there have been a series of child sexual exploitation cases linked closely to taxi and private hire vehicle licensing.

The most notable of these has been in Rotherham, where widespread abuse took place between 1997 and 2013. Independent inquiries were conducted and published ... Both the Jay and Casey reports made specific references to the role of the taxi and PHV industry and linked them to the exploitation that had taken place [...]

The Jay and Casey reports demonstrate that not all councils apply the same high standards when undertaking their taxi and PHV licensing functions. To address this, [the Bill] confers a power on the Secretary of State for Transport to issue statutory guidance to local authorities. Such guidance will relate to how the licensing authorities may best exercise their functions so as to protect children and vulnerable adults. Licensing authorities will be under a duty to have regard to the guidance. The Department for Transport will continue to issue non-statutory guidance covering

¹³⁵ See, e.g. Fol responses from [Merseyside Police](#) and [Northumbria Police](#)

¹³⁶ TfL, [TPH journey-related sexual offences](#) [accessed 14 December 2017]

¹³⁷ e.g. Department of Transport circular 2/92 and Home Office circular 13/92

¹³⁸ *op cit.*, [Taxi and private hire vehicle licensing: best practice guidance](#), para 59

¹³⁹ Under section 177 of the [Policing and Crime Act 2017](#)

43 Taxi and private hire vehicle licensing in England

other aspects of local licensing authorities' taxi and PHV licensing functions.¹⁴⁰

The Government has stated that it intends to consult on this guidance but there is no anticipated date as yet for doing so.¹⁴¹ In its September 2018 report the Task and Finish Group to press ahead with this "as a matter of urgency".¹⁴²

There have been a number of press stories about drivers given licences to work as either taxi or PHV drivers despite being denied a licence in another authorities due to their – sometimes serious – criminal convictions.¹⁴³ There have also been reports of GPs allegedly accepting cash payments from would-be PHV drivers to give the medical clearance needed by drivers to obtain a PHV licence.¹⁴⁴

In its May 2014 report the Law Commission proposed national minimum licensing standards, including for drivers. They argued that "Consumers have the right to expect a minimum level of safety wherever they are and whichever kind of vehicle they travel in".¹⁴⁵ It went on:

Currently, the extent to which previous convictions disqualify a licence-holder is left to individual licensing authorities to determine. A significant number of licensing officers told us that they would like to see a more consistent, national approach to convictions policy. Past criminality is plainly a matter that should be taken into account in determining suitability to be a taxi or private hire driver, and something that we expect will be covered by national standards if our recommendations are followed. Their formulation will need to take into account Article 8 of the European Convention on Human Rights, which has recently given rise to a successful challenge in the Court of Appeal to some aspects of the current approach to revealing old and/or minor convictions and cautions. National standards on the appropriate approach to criminal records in taxi and private hire licensing will assist with compliance with the complex and changing law in this area and will be an important safety measure.

We also suggest that the Secretary of State make it a condition of a licence to inform the licensing authority where a licensee is arrested for, charged with or convicted of a disqualifying offence.¹⁴⁶

On the last point, the draft Bill appended to the Commission's report included a provision for a register of licences (clause 23). This could enable local licensing authorities to check the credentials of drivers licensed by other authorities.

¹⁴⁰ DfT, *Policing and Crime Bill: Taxi and Private Hire Vehicle Safeguarding Provisions*, June 2016, paras 10, 11 & 12

¹⁴¹ See, e.g. [Taxis: Safety: Written question – 112199](#), 16 November 2017

¹⁴² Op cit., [Taxi and Private Hire Vehicle Licensing: Steps towards a safer and more robust system](#), p32, rec.16

¹⁴³ See, e.g. Suzy Lampugh Trust press notice, "[Taxi and private hire vehicle licences granted to drivers with criminal convictions due to inadequate regulations](#)", January 2018; and "[Taxi scandal: public safety 'at risk' as thousands of cab drivers exploit law](#)", *The Times*, 23 May 2018

¹⁴⁴ "[GPs 'took bribes to fake medicals' of minicab drivers](#)", *The Times*, 4 October 2016

¹⁴⁵ Op cit., [Taxi and Private Hire Services](#) (Law Com No 347), para 5.21

¹⁴⁶ Ibid., paras 5.39-5.40

The APPG on taxis also recommended in its July 2017 report that the Government establish a national database of registered taxi and PHV drivers and operators in conjunction with the DVLA and police.¹⁴⁷

In its September 2018 report the Task and Finish Group considered passenger safety issues at length (see [chapter 4](#)) and recommended, like the Law Commission before it, national minimum standards. It argued that until such a time as the Government legislated for these, local licensing authorities “should work collectively to increase consistency”.¹⁴⁸ It recommended fitting all vehicles with CCTV and helping small businesses with the costs of this; better in-cab driver identification; better background checks and information sharing – including enhanced DBS and barred lists checks for all drivers; standard ‘tariffs’ for specific offences and ability to be licensed; and a “mandatory national database of all licensed taxi and PHV drivers, vehicles and operators”.¹⁴⁹

The group also recommended better training and engagement, specifically that all drivers be required to undertake safeguarding/child sexual abuse and exploitation awareness training including “the positive role that taxi/PHV drivers can play in spotting and reporting signs of abuse and neglect of vulnerable passengers”, and that eventually this requirement be part of national minimum standards.¹⁵⁰

Licensing of Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Bill 2017-19

In July 2017 Labour MP and member of the Transport Select Committee Daniel Zeichner brought forward a Private Member’s Bill about the exercise of taxi and PHV licensing functions in relation to persons about whom there are safeguarding or road safety concerns.

The [Licensing of Taxis and Private Hire Vehicles \(Safeguarding and Road Safety\) Bill](#) requires taxi and PHV licensing authorities in England to share information with other licensing authorities to prevent unsuitable people being licensed as a taxi or PHV driver. The Bill is in two parts; the explanatory notes explain:

The first [part] requires licensing authorities in England to input into a central database instances where the authority has suspended, revoked, refused to grant or refused to renew a taxi or PHV driver’s licence because of certain safeguarding or road safety concerns relating to that driver. Other licensing authorities in England must then have regard to that information when considering whether to grant or renew a taxi or PHV driver’s licence. The second part of the Bill requires licensing authorities in England to report certain safeguarding or road safety concerns about a taxi or PHV driver working in their area to the licensing authority in England, Wales or Scotland that granted a licence to that driver. The Bill then requires licensing authorities in England

¹⁴⁷ Op cit., [Lessons from London: the Future of the UK taxi trade](#), rec 2, p5

¹⁴⁸ Op cit., [Taxi and Private Hire Vehicle Licensing: Steps towards a safer and more robust system](#), para 4.7

¹⁴⁹ Ibid., pp33-37

¹⁵⁰ Ibid., p37, rec. 25

to have regard to any such reports received and to consider whether the relevant taxi or PHV driver should remain licensed.¹⁵¹

As the impact assessment to the Bill states, the Bill is designed to tackle the particular problem of licensing authorities not knowing drivers' licensing histories with other authorities, which has led to inconsistency in the assessment and issuing of taxi and PHV driver licensing and the phenomenon of unsuitable persons being granted taxi or PHV driver licences by way of 'shopping around' for licences (i.e. when they have been refused a licence, or had one revoked by one licensing authority but apply to other authorities with less stringent policies to obtain a licence).¹⁵²

Debate began on the Commons Second Reading of the Bill on Friday 2 February 2018. However, at the end of the sitting the debate was still in progress and a decision on whether to give the bill its Second Reading could not be taken.¹⁵³ The Bill is down to resume on [23 November](#), but it is far down the list and therefore unlikely to proceed.

8.5 Plying for hire

The term 'plying for hire' is used essentially to distinguish between the regulatory requirements which apply to taxis (which can be hired in the street), and those which apply to PHVs (which must be pre-booked).¹⁵⁴ The exact definition of the term and what constitutes 'plying for hire' is not always clear. The Law Commission explained:

Their exclusive right to ply for hire is thus made the defining characteristic of taxis under the current law, although the term is not defined in the legislation. Picking up passengers at ranks and in response to hailing is generally understood to be at the core of plying for hire, but these activities do not feature in the legislation. Instead, the case law refers to factors such as the "exhibition" of the vehicle, which may indicate plying for hire, its availability to the general public and the "immediacy" of its availability. Parking a vehicle in a public place may or may not amount to plying for hire, depending on an assessment of these factors. The case law is often inconsistent and unclear. Technology has highlighted the indeterminacy of some of these factors by adding new ways for consumers to engage services. Internet bookings for example can be virtually immediate, suggesting taxi-like behaviour, and yet have all the characteristics of a pre-booking, making them compliant with private hire requirements.

¹⁵¹ [Licensing of Taxis and Private Hire Vehicles \(Safeguarding and Road Safety\) Bill: Explanatory Notes](#), 25 January 2018, para 2

¹⁵² DfT, [Licensing of Taxis and Private Hire Vehicles \(Safeguarding and Road Safety\) Bill](#), IA No: DfT00353, 28 November 2017, p1

¹⁵³ [HC Deb 2 February 2018, cc1170-6](#)

¹⁵⁴ section 38 of the [Town Police Clauses Act 1847](#) and section 4 of the [Metropolitan Public Carriage Act 1869](#); in Scotland the definition is slightly different in that a taxi is a vehicle which "is engaged, by arrangements made in a public place between the person to be conveyed in it (or a person acting on his behalf) and its driver for a journey beginning there and then" [section 23 of the [Civic Government \(Scotland\) Act 1982](#)]

Plying for hire without a taxi licence is a criminal offence and is therefore critical in defining what private hire vehicles are not allowed to do.¹⁵⁵

With that in mind, the Commission sought views on whether the definition of ‘plying for hire’ should be put on a statutory footing. This received near-unanimous support from the industry.¹⁵⁶ However, in its final report the Commission concluded that a statutory definition “would not be a practical improvement on the current position”. It came to this decision based on advice “from an expert panel composed of distinguished licensing lawyers that we set up specifically for the purpose of discussing reform of ‘plying for hire’”. The main reason for this conclusion was that:

... whether a vehicle is plying for hire in particular circumstances is, as the courts have noted, a matter of fact and degree. No statutory list of factors could be sufficiently determinative to give clear guidance, leaving many of the current grey areas unresolved.¹⁵⁷

As to the question of whether smartphone apps can act as digital ‘plying for hire’ in some circumstances, it said:

We agree with the point made by consultees that an application that alerts the user to a nearby or approaching vehicle, using Bluetooth push notifications for example, offering the vehicle for hire, is comparable to manual hailing. Indeed, depending how the notifications worked, and whether the customer had consented to receiving such notifications in advance, this might amount to unlawful touting, an offence which is preserved under our reforms. Under the current law, such behaviour would probably amount to plying for hire, and be restricted to local taxis.¹⁵⁸

Ultimately, the Commission decided to focus upon the precondition for lawful transport of a passenger in a PHV – namely pre-booking – and upon improving its enforceability through record-keeping obligations imposed on private hire operators. It said:

... although we abandon the concept of plying for hire, a lawful private hire journey must involve a request to fulfil the journey by a licensed dispatcher (and not directly from the customer). Further, it must comply with statutory pre-booking requirements. This means that the licensed dispatcher must make appropriate records before the journey begins (including of the estimated price of the journey and the identity of the hirer, in such form as the Secretary of State may prescribe). Moreover, private hire drivers are prohibited from accepting a hiring “there and then”.¹⁵⁹

In light of this, the Commission recommended:

- the offences relating to plying for hire should be abolished and replaced with a new scheme of offences, resting on the principal prohibition of carrying passengers for hire without a licence, alongside a new offence making it unlawful for anyone other

¹⁵⁵ op cit., [Taxi and Private Hire Services](#) (Law Com No 347), pp18-19, para 3.7

¹⁵⁶ ibid., pp19-20, paras 3.9-3.14

¹⁵⁷ ibid., p20, para 3.15

¹⁵⁸ Ibid., para 3.157

¹⁵⁹ Ibid., para 3.157

than a local taxi driver to accept a journey starting ‘there and then’; and

- a statutory definition of ‘pre-booking’ in order to create a clear distinction between the work of a taxi in its licensing area and the work of a PHV.¹⁶⁰

Despite the Law Commission’s conclusion that statutorily defining ‘plying for hire’ could prove difficult, there have been subsequent calls for this. For example, in its July 2017 report the APPG on taxis argued that the Government should “legislate to provide a legally enforceable statutory definition of plying for hire”.¹⁶¹ In support of this the report quoted the Mayor of London, Sadiq Khan, who “has committed to lobbying Government for a statutory definition of plying for hire and pre-booked services as currently “plying for hire is difficult to prove and requires significant enforcement resources””.¹⁶²

In its September 2018 report the Task and Finish Group stated that “if we are to be supportive of the two-tier system, it is inevitable that we must be able to effectively distinguish those two tiers” and argued that defining ‘plying for hire’ “is essential to that”.¹⁶³ In light of this the group recommended that the Government introduce a statutory definition of both ‘plying for hire’ and ‘pre-booked’ and that the definition:

... include reviewing the use of technology and vehicle ‘clustering’ as well as ensuring taxis retain the sole right to be hailed on streets or at ranks. Government should convene a panel of regulatory experts to explore and draft the definition.¹⁶⁴

8.6 Taximeters

‘Taximeters’ are in-vehicle devices that calculate a fare based on distance travelled and time waiting. Outside London, PHVs are not required to have taximeters, but have the option of installing one, while in London PHVs are prohibited from being equipped with a taximeter.¹⁶⁵

Like plying for hire, taximeters are an increasingly controversial area, particularly in London (see below). In its May 2014 report the Law Commission looked at the use of taximeters in PHVs. It concluded that the use of taximeters in PHVs should not be banned, “as we consider that metered pricing may be useful for estimates; and we have heard evidence that consumers may prefer the use of a taximeter where they are not in a position to judge whether the price quoted is fair”.¹⁶⁶

¹⁶⁰ *ibid.*, p22, recommendations 2 and 3

¹⁶¹ *Op cit.*, [Lessons from London: the Future of the UK taxi trade](#), p11

¹⁶² *ibid.*, p10

¹⁶³ *Op cit.*, [Taxi and Private Hire Vehicle Licensing: Steps towards a safer and more robust system](#), para 3.27

¹⁶⁴ *ibid.*, p21, recc.5

¹⁶⁵ section 71 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#) and section 11 of the [Private Hire Vehicles \(London\) Act 1998](#)

¹⁶⁶ *op cit.*, [Taxi and Private Hire Services](#) (Law Com No 347), p89, para 5.62

Uber in London and the 2015 court case

One of the most controversial aspect of those PHV operators, like Uber, which rely on smartphone apps for their operation, has been the question of whether their drivers' use of those smartphones constitutes a 'taximeter' and is therefore illegal. Following much delay, Transport for London (TfL) secured a legal declaration on this in October 2015.¹⁶⁷

TfL sought a declaration that Uber's PHVs were not equipped with a taximeter in contravention of section 11 of the *Private Hire Vehicles (London) Act 1998*. The Administrative Court, in granting a declaration, held that Uber's PHVs were not equipped with a taximeter as defined by section 11(3) of the 1998 Act. The driver's smartphone with a driver's app was not a device for calculating fare by itself or in conjunction with a server and, even if it was, the vehicle was not equipped with it.¹⁶⁸

TfL said that "with legal certainty established over taximeters, we will continue to work hard with all of our stakeholders to deliver taxi and private hire services which meet the needs of modern London".¹⁶⁹ Uber welcomed the decision, calling it "a victory for common sense" and meant that the company would not "have to make any unnecessary changes to the way Uber works today. People will still be able to push a button and book a ride—without being forced to do something like having to type in their destination every time".¹⁷⁰

The London Taxi Drivers' Association said "The law is an ass" and that it was "such a ludicrous decision that our lawyers have already launched an appeal ... where hopefully, we can find a judge with a common sense solution to a very simplistic question. Does the Uber smartphone calculate the fare by a combination of time and distance? There can be only one answer, and any judgement that declares otherwise is flawed and wrong".¹⁷¹

8.7 Disruptive technology

Over the past few years much has been said about how Uber and other technology platforms have 'disrupted' traditional taxi and PHV markets. This is a particular issue in London.¹⁷²

In its July 2016 report into the digital economy the Commons Business, Innovation and Skills Select Committee described the impact of 'disruptive' technologies as follows:

Disruptive technologies 'disrupt' the accepted means of delivering a service, which in turn bring tension between disruptors and those businesses being disrupted ... Uber, described as "a

¹⁶⁷ see [Letter from TfL Commissioner to Board members](#), 15 January 2015

¹⁶⁸ [Transport for London v Uber & others](#), [2015] EWHC 2918 (Admin), 16 October 2015

¹⁶⁹ TfL press notice, "[High Court declares that smartphones used in private hire vehicles are not taximeters](#)", 16 October 2015

¹⁷⁰ Uber press notice, "[High Court rules that Uber's app is not a taximeter](#)", 16 October 2015

¹⁷¹ "[Judge rules: "It's not a meter!"](#)", *Taxi* (no. 354), 20 October 2015

¹⁷² For a summary of the pros and cons of the entry of Uber into the London market, see: London Assembly Transport Committee, [Future proof: Taxi and Private Hire Services in London](#), 16 December 2014

software company, a smartphone app, and licensed as a private hire operator”, disrupts the London Hackney carriage model and the existing private hire operators [...] The tension between so-called disruptors and disrptees is keenly felt when it comes to regulation. Often digital disruptor businesses do not have to follow the same regulation and compliance as incumbent businesses that are being disrupted, which can be seen as giving the new disruptor an unfair competitive advantage.¹⁷³

The Committee said that regulation should be focused on protecting customers and ensuring that market power is not abused. Further, the Government should promote productivity, innovation, and customer choice and protection.¹⁷⁴

In its May 2014 report the Law Commission stated that “It has become common to refer to “electronic hails”, where customers use smartphone applications to engage a taxi or private hire vehicle”.¹⁷⁵ It described the process as follows:

Some types of application allow the user to book with a specified provider, inputting their route and receiving a price estimate and pick up time. Such applications often allow the customer to rate their experience following the journey. This can be contrasted with comparison applications such as Kabbee. Someone using this application would input the details of their journey and be given a number of quotes from different providers, as well as estimates of how quickly a vehicle could pick them up. The user can then access the provider directly through the application, in order to book. Often users will already know the providers available, and so be able to form their own judgment as to the quality of service offered.¹⁷⁶

The Commission proceeded to discuss the concerns the industry has about the blurring of the line between physical and virtual ‘plying for hire’ (see sections 7.5 and 7.6, above):

The first point to note is that a customer choosing to use a smartphone application has a choice amongst several providers on the internet. If the customer were to have an unsatisfactory experience they may select a different provider the next time. That is different from hailing a taxi or waiting at a rank, where the customer exercises no choice in respect of the vehicle they use. In contrast to traditional hailing, the consumer using the internet has strong consumer choice.¹⁷⁷

In its October 2016 report the IEA said that smartphone-enabled transport apps “are commonly described as part of the so-called ‘sharing economy’ [...] which] involves the reduction of transaction costs, which in turn enables a greater number of exchanges to take place. It is about the rise of middlemen – mainly in the form of websites and mobile applications – whose value-added is to facilitate

¹⁷³ BIS Committee, *The Digital Economy* (Second Report of Session 2016–17), HC 87, 18 July 2016, paras 40-41

¹⁷⁴ Ibid., paras 45-46 & 50

¹⁷⁵ Op cit., *Taxi and Private Hire Services* (Law Com No 347), para 3.146

¹⁷⁶ Ibid., para 3.147

¹⁷⁷ Ibid., para 3.154

exchanges".¹⁷⁸ The report argued that there are three main benefits from the use of this technology:

- It provides searchable and immediate information about options and prices;
- It outsources trust to assure safety and quality without effort by the users (i.e. a key part of their value proposition is the ability to rate users on both sides of the transaction); and
- It consummates the transaction in a way that does not require enforcement on the part of the user (i.e. use of electronic payments and the tracking of routes means that transactions are automatically enforced).¹⁷⁹

Although Uber is the most well-known app of this sort there are other examples around the world. In a May 2017 paper for *The Political Quarterly*, Geoffrey Dudley, David Banister, and Tim Schwanen explained:

... the type of service provided by Uber is far from unique and, indeed, in San Francisco itself, rival companies Lyft and Sidecar already provided app based services similar to those introduced by Uber in 2010. Lyft remains a major competitor in the United States, while Uber has faced major regional competition from such companies as Grab in South-East Asia, Gett in Israel, and Ola in India. In China, competition has been particularly fierce. Uber poured huge resources into this market, but in 2016 was compelled to merge with its chief rival, Didi Chuxing.¹⁸⁰

Regarding Uber's impact in London, the paper argued that

A consistent advantage for Uber is that having achieved a certain critical mass in terms of cars and drivers on the streets, restricting their growth becomes politically sensitive as it may be seen to be frustrating public demand.¹⁸¹

It concluded:

In London, Uber was able to launch a politically sophisticated campaign in winning public and business support when it was threatened with tighter regulation. Its fares might be extensively subsidised, but its success was based on an operation undoubtedly popular with the public, and with modern 'techno-optimism' at its heart. Nevertheless, on a wider scale, the company appears to have accepted that it needs political allies if it is to continue its rate of growth.¹⁸²

A further February 2017 paper for the University of the West of England also looked at the impact of digital innovations on the London transport network. It found that:

... the digital innovations introduced by Uber disrupted the market and changed the nature of how people interact with the wider transportation system. Uber has made it easier for

¹⁷⁸ Op cit., [Hire Authority: Turning statutory regulation into private regulation for the UK's taxi industry](#) (IEA Discussion Paper No.76), p32

¹⁷⁹ Ibid., pp33-35

¹⁸⁰ Dudley, G., Banister, D. and Schwanen, T. (2017), "[The Rise of Uber and Regulating the Disruptive Innovator](#)", *The Political Quarterly*, 88: 492-499. doi:10.1111/1467-923X.12373

¹⁸¹ Ibid.

¹⁸² Ibid.

individuals to move around the city, filling a gap in the existing transportation system. Uber have rapidly achieved a leading position in the private hire taxi service across the city. Regulation for Black Cabs needs to change if they are to compete and remain a service in the broader customer market.¹⁸³

As set out in section 5.3, above, Uber has now been refused a renewal of its London licence. It remains to be seen if accommodation with TfL and/or a successful appeal in court will reverse this decision.

Competitiveness of the taxi trade

In this new environment there is ongoing debate about how the taxi trade can remain competitive. Some have argued that the taxi trade is unwilling to modernise to compete in this new world, but the APPG on taxis argued in its July 2017 report that this was demonstrably untrue:

It has been suggested that taxi drivers are being driven out of the market by the dominance of app-based PHVs, partly due to an unwillingness from the trade to adapt to new technologies. This inquiry sought to assess whether this is the case, and how the trade could safeguard itself from the emergence of new technologies and competition.

Oral and written evidence received as part of this inquiry has shown that taxi drivers are more than willing to adapt and use new technologies. For instance, Chairman of the taxi app Gett, Geoffrey Riesel, highlighted that many taxis have actually been taking credit card payments since as early as 1989/90 – around 17 years before TfL made it mandatory. There are also two apps available for black cab drivers, mytaxi (previously known as Hailo) and Gett. Andrew Pinnington, CEO of mytaxi which runs the black cab app mytaxi, highlighted that Hailo was around before Uber, and that two-thirds of the trade use apps.¹⁸⁴

The report suggested that the main challenge for the taxi trade, particularly in London, is uncompetitive fares – which are set by Transport for London. It recommended work to address this problem:

As it currently stands, the fare structure, set by TfL, is not fit for purpose and is reducing the competitiveness of the taxi trade. Fares need to reflect the actual costs of running a black cab, and we are keen to ensure that any reduction in fares does not lead to a race to the bottom in terms of standards. However, fares also need to consider other factors including varying levels of demand and competitive and customer feedback. Purely relying on a “costplus” model, which is the actual cost of the product plus a suggested price increase, will not allow the taxi trade to stay competitive.

We recognise that TfL are already taking steps to review fixed fares, but we recommend that there is greater communication between TfL, representatives from the taxi apps, and the trade to ensure that the taxi fare structure remains competitive with prices offered by PHVs, particularly in the evening and at night.¹⁸⁵

¹⁸³ Wood, Z., Parry, G., Carruthers, J. and Rose, K. (2017), [Assessing the impact of digital innovations in the London transportation network](#). Project Report. UWE Repository, executive summary

¹⁸⁴ Op cit., [Lessons from London: the Future of the UK taxi trade](#), p21

¹⁸⁵ Ibid., p22

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