



Taxis: quantity restrictions

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This note looks at the issue of quantity restrictions on taxis and proposals for their removal. Taxi regulation is a devolved matter; this note deals only with England and Wales.

The present law varies depending where one is. In England and Wales, outside London, taxis (hackney carriages) 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. The licensing conditions that are applied to taxi drivers and the local conditions of vehicle fitness are for each council to decide, so can vary considerably from area to area. In London, the taxi legislation dates back to the nineteenth century, but the main licence conditions are made under the *London Cab Order 1934*.

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 a report by the OFT in 2003 the Labour Government opted not to abolish quantity restrictions. The Law Commission published a consultation in May 2012 asking for views on proposals to reform and deregulate taxi licensing across England and Wales, including removing these restrictions. It announced in May 2014 that it would not recommend abolishing restrictions but that licences in areas where new restrictions were imposed should not be tradable.

Other notes are available on taxi and minicab licensing and policy generally ([SN2005](#)), disabled people and taxis ([SN601](#)), and the carrying of guide dogs by taxis and PHVs ([SN1899](#)). Information on other roads- and traffic-related issues can be found on the [Roads Topical Page](#) of the Parliament website.

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1 Background

The regulation of the taxi industry could be said to have begun in 1636 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. In 1654 Oliver Cromwell authorised the establishment of the Fellowship of Master Hackney Coachmen, leading to the present day definition of 'hackney carriage'. The present licensing system is a little more modern but much of it does date back to the last century.

There are basically two trades providing driver and car hire: taxis or the old fashioned 'hackney carriage', and private hire vehicles (PHVs), which are also referred to as 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 by telephone or calling in person at an office. There is a large market overlay 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) so being used in a way almost undistinguishable from plying for hire. The dividing line between the two trades has therefore become increasingly blurred.

The present regulatory arrangements governing taxis have grown up by historical accident rather than design. The present law varies depending where one is. In England and Wales, outside London, 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. In London, the taxi legislation dates back to the last century, but the main licence conditions are made under the [London Cab Order 1934](#).

Section 37 of the 1847 Act empowers local councils to issue licences for hackney carriages and to decide whether to restrict the number of licences. Section 16 of the [Transport Act 1985](#) introduced the provision:

... that the grant of a licence may be refused, for the purpose of limiting the number of hackney carriages in respect of which licences are granted, if, but only if, the person authorised to grant licences is satisfied that there is no significant demand for the

services of hackney carriages (within the area to which the licence should apply) which is unmet.

A council must therefore be convinced that there is too little demand and be able to satisfy, should the need arise, a Magistrates Court if an applicant takes the council to court for refusing to grant a licence. It is only in these circumstances that a council could refuse a licence. The means by which level of demand is assessed is a survey.

In October 1993, the then Conservative Government published a consultation paper on the future of taxis and hire cars in England and Wales. The paper made clear the Government's belief that local authority intervention in controlling taxi numbers was no longer desirable, on the grounds that it was for the market to determine supply and demand. The effect of limiting licences was that people wishing to enter the trade for the first time had to purchase already licensed vehicles from existing proprietors. These could sometimes cost several thousand pounds.¹ The Transport Minister at the time, Steven Norris, announced the results of the consultation exercise in February 1995. Amongst other things, the Government concluded that taxi licensing outside London would continue to be the responsibility of district councils and that the ability of local authorities outside London to control taxi numbers would be phased out. It did, however, accept that some power over taxi numbers should be retained in case of special circumstances. It suggested that the removal of controls should be phased in over fifteen years.²

2 Law Commission review, 2012-14

In May 2012 the Law Commission published a consultation paper seeking views on a number of proposed reforms to how taxis operate, designed broadly to deregulate the industry. This included the proposal that: "licensing authorities could no longer limit the number of taxi licences".³ In chapter 9 of the consultation document the Commission set out its reasons for this proposal in detail. It cited the evidence collected by the OFT in 2003 (see below) and successful deregulation in other countries. It concluded:

Whilst quantitative deregulation is often criticised for giving rise to such problems as over-ranking, congestion, higher fares and lower standards, the comparative studies above show that often these effects can be linked to other reforms, such as the removal of fare regulation and changes to standard-setting. Furthermore, accompanying reforms can rectify damage caused by de-regulation, for example by ensuring standards and service levels. Studies show that the balance of regulatory and deregulatory instruments is essential to the outcome, and that it is vital that the structure of the industry and the way in which individuals work are understood and taken into account. Each element of regulation must be considered both individually and in conjunction with other elements of regulation.⁴

In April 2013 the Commission published an interim statement about the consultation, setting out its preliminary conclusions on some of the major themes highlighted in the consultation. In particular, on the issue of removing quantity restrictions the Commission concluded that restrictions should **not** be abolished and that local licensing authorities should still be allowed

¹ DoT, *Taxis and PHVs: a consultation paper on the future of the taxi and private hire services in England and Wales*, October 1993

² [HC Deb 22 February 1995, c189W](#); details were given in the Government's response to the Transport Committee, see: *The Government's response to the Transport Select Committee's recommendations: taxis and private hire vehicles*, Cm 2715, February 1995

³ Law Commission, [Reforming the law of taxi and private hire services: summary](#), May 2012, para 1.10

⁴ Law Commission, [Reforming the law of taxi and private hire services: consultation](#), May 2012, para 9.58

to impose restrictions should they wish. This decision was reached ‘on the weight of evidence’ presented to the Commission.⁵ The Commission published its final report and a draft bill on 23 May 2014. It reiterated the decision not to abolish quantity restrictions but it did recommend controls on the 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. It explained this decision as follows:

Local authorities currently have the power to limit the number of taxi vehicle licences issued in their area. In doing so, they must not leave significant unmet demand for taxis within the area.

Quantity controls have been another particularly controversial issue within the project. We initially provisionally proposed that local authorities should lose the ability to limit the number of taxis licensed in their area on the basis that it could be left to the market to determine the appropriate number of vehicles. The majority of evidence received during consultation and further comparative research have led us to change this key recommendation so as to allow licensing authorities to continue to limit taxi numbers. We do not regard the current statutory criterion of “unmet demand” as appropriate and instead suggest a test based on the public interest, combined with procedural requirements such as a review every three years and a duty to consult.

Whilst we accept that quantity controls can be a positive regulatory tool for licensing authorities, when exercised in accordance with the public interest and appropriate safeguards, they have the undesirable side-effect of creating a barrier to entry. The vehicle licence can be transferred with the vehicle, giving licensed vehicles an inflated value. In areas where quantity restrictions exist, the value of licences traded in this way varies but can be as high as £120,000, a considerable sum for an incoming driver to fund. We recommend that there should be no changes to the transferability of licence plates in areas that currently have quantity restrictions, so that licence holders who may themselves have invested a considerable amount of money to purchase the licence, or otherwise reasonably expected their “plate” to have accrued substantial value, would not be negatively impacted by our reforms. On the other hand, taxi licences in areas which first introduce quantity restrictions only after our reforms should not be tradeable. This would prevent new plate values from arising in areas which introduce quantity restrictions only after implementation of our reforms.⁶

A copy of the draft Bill can be found at the back of the [full report](#), beginning on page 214. The Transport Minister, Stephen Hammond, indicated just before the report and the draft Bill were published that the Government has “no plans to introduce a dedicated taxi Bill in the final parliamentary Session. Instead, Government will consider the detailed findings of, and recommendations made, by the Law Commission before setting out our thinking on each in due course”.⁷

3 OFT report and the view of the Labour Government, 2003-04

3.1 OFT report, November 2003

The Office of Fair Trading (OFT) announced in August 2002 that it was to study the UK licensed taxi services market. The main focus of the inquiry was the effects of licence restrictions imposed by many local authorities on the supply of licensed taxis. As part of this

⁵ Law Commission, *Taxi and Private Hire: Interim Statement*, April 2013, paras 6-7

⁶ Law Commission, *Taxi and Private Hire Services*, Cm 8864, 23 May 2014, pp8-9; for full details see chapter 11

⁷ [HC Deb 13 May 2014, c22WS](#)

investigation, the OFT invited comments that would enable it to assess the effects of any limits of taxi numbers imposed by licensing authorities; and if any changes to regulation were necessary to improve competition in the market, if the market was working well.⁸

The OFT's final report was published 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.⁹ The OFT stated that this would benefit customers by improving quality and choice for customers, as it would mean:

- putting more taxis on the road – removing quantity restrictions could increase the number of taxis in affected areas by 30 per cent
- making journeys safer – removing quantity restrictions and increasing the number of licensed taxis will reduce the need for illegal taxis where neither the driver or vehicle have been subject to appropriate quality and safety checks. Last year around 1.8 million people used an illegal taxi, exposing themselves to potentially serious safety risks
- reducing passenger waiting times – removing quantity restrictions will save an overall 2.5 million hours across the UK
- creating more choice – removing quantity restrictions could put an extra 15,000 taxis on the road. This will substantially increase peoples' choice of transport modes when deciding how to reach their destination
- promoting best practice in LAs' application of quality and safety controls to ensure the needs of local people are met and that individuals and businesses are not deterred from supplying taxi services
- protecting people in vulnerable situations from overcharging, while encouraging the benefits of fare competition.¹⁰

3.2 Responses

Transport Committee report, February 2004

The House of Commons Transport 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 on the basis that the sampling and conduct of the OFT's research and surveys was inadequate and that it did not look sufficiently at the interrelationship between taxis and private hire vehicles.¹¹

The Committee published the OFT's response to its criticisms in March 2004 and took the unusual step of prefacing the OFT's comments with its own, taking issue with some of what was said:

The OFT claims "the relevant basis upon which the decision to derestrict should be made is whether restricting taxi numbers benefits consumers today. Our analysis robustly demonstrates that it does not." That analysis appears to be based on flimsy information relating to waiting times. Even though the OFT denies that it used its

⁸ OFT, *Investigation into UK taxi services: issues paper*, 21 August 2002

⁹ OFT, *The regulation of licensed taxi and PHV services in the UK*, OFT 676, 11 November 2003, para 1.7

¹⁰ *ibid.*, para 1.8

¹¹ 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

studies selectively, it does not address evidence from its own analyses which suggests that fares are lower in restricted areas. It does not look at quality of service issues, even though its own studies show "only the hypothesis that entry regulation has a positive impact on quality of service was supported by the data." It completely disregards the conclusion of its own consultants that the overall effect on consumer welfare of quantity controls is ambiguous. It ignores the experience of local authorities with responsibility for transport services in their areas and does not adequately discuss the experience of authorities which have derestricted their taxi services only to restrict them when experience has shown that derestriction brings disadvantages. If this is the best the OFT can offer in favour of compulsory derestriction we see no argument for change.

At the end of its response to us the OFT says:

"on the issue of increasing taxi and PHV usage in the last 25 years, the increase has been against the background of growing numbers of licensing authorities de-restricting their taxi services. In 1980 around 65 per cent of licensing authorities restricted taxi numbers. Today this figure has dropped to 45 per cent."

The implication is that the increase in usage has been a result of the decrease in restrictions. We would be very interested to see any statistical evidence showing such a link. If the OFT has access to such evidence we are surprised that it was not included in its market study. If it does not, then it should refrain from making unsupported assertions of this nature.

It would have been perfectly possible for the OFT to have taken longer over its study, and to have commissioned properly directed research on which to base its findings, rather than rely on a mass of studies, doubtless all properly done, but done for different reasons over an extended time. We do not believe that making major recommendations on the basis of such evidence is an example of high research standards. In this case, the OFT appears to have confused quantity of data with quality of data ... ¹²

Department for Trade and Industry, March 2004

The Labour Government announced on 18 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. The then Secretary of State for Trade and Industry,¹³ Patricia Hewitt, responded to the report in a statement to the House. On quantity restrictions, she said:

The Government agree that consumers should enjoy the benefits of competition in the taxi market and considers that it is detrimental to those seeking entry to a market if it is restricted. The Government are therefore strongly encouraging all those local authorities who still maintain quantity restrictions to remove restrictions as soon as possible. Restrictions should only be retained if there is a strong justification that removal of the restrictions would lead to significant consumer detriment as a result of local conditions.

However, the Government received a significant number of representations expressing the view that ultimately local authorities remain best placed to determine local transport needs and to make the decisions about them in the light of local circumstances. The Government believe that local authorities should be given the opportunity to assess

¹² Transport Committee, *The OFT's response to ... the regulation of taxis and private hire vehicle services in the UK* (fifth report of session 2003-04), HC 418, 5 March 2004, paras 13-15

¹³ now Business, Innovation and Skills (BIS)

their own needs, in the light of the OFT findings, rather than moving to a legislative solution.

Nevertheless the Government believe that local authorities should publish and justify their reasons for restricting the number of taxi licences issued. The Government will therefore write shortly to each district/borough council or unitary authority maintaining quantity restrictions and ask them to review by 31 March 2005 the local case for such restrictions, and at least every three years thereafter, and make their conclusions available to the public.¹⁴

Department for Transport guidance, 2005-

In August 2005 the Department for Transport consulted on best practice guidance to local authorities; this was published in 2006.¹⁵

The guidance was last updated in March 2010, before the Labour Government left office. On quantity restrictions, it states

Most local licensing authorities do not impose quantity restrictions; the Department regards that as best practice. Where restrictions are imposed, the Department would urge that the matter should be regularly reconsidered. The Department further urges that the issue to be addressed first in each reconsideration is whether the restrictions should continue at all. It is suggested that the matter should be approached in terms of the interests of the travelling public - that is to say, the people who use taxi services. What benefits or disadvantages arise for them as a result of the continuation of controls; and what benefits or disadvantages would result for the public if the controls were removed? Is there evidence that removal of the controls would result in a deterioration in the amount or quality of taxi service provision?

In most cases where quantity restrictions are imposed, vehicle licence plates command a premium, often of tens of thousands of pounds. This indicates that there are people who want to enter the taxi market and provide a service to the public, but who are being prevented from doing so by the quantity restrictions. This seems very hard to justify.

If a local authority does nonetheless take the view that a quantity restriction can be justified in principle, there remains the question of the level at which it should be set, bearing in mind the need to demonstrate that there is no significant unmet demand. This issue is usually addressed by means of a survey; it will be necessary for the local licensing authority to carry out a survey sufficiently frequently to be able to respond to any challenge to the satisfaction of a court. An interval of three years is commonly regarded as the maximum reasonable period between surveys.

As to the conduct of the survey, the Department's letter of 16 June 2004 set out a range of considerations. But key points are:

- **the length of time that would-be customers have to wait at ranks.** However, this alone is an inadequate indicator of demand; also taken into account should be...
- **waiting times for street hailings and for telephone bookings.** But waiting times at ranks or elsewhere do not in themselves satisfactorily resolve the question of unmet demand. It is also desirable to address...

¹⁴ [HC Deb 18 March 2004, cc33-35WS](#)

¹⁵ DfT, [Taxis and private hire vehicles – consultation on draft best practice guidance](#), 2 August 2005; and: DfT, [Taxi and private hire vehicle licensing: best practice guidance](#), 7 November 2006

- **latent demand**, for example people who have responded to long waiting times by not even trying to travel by taxi. This can be assessed by surveys of people who do not use taxis, perhaps using stated preference survey techniques.
- **peaked demand**. It is sometimes argued that delays associated only with peaks in demand (such as morning and evening rush hours, or pub closing times) are not 'significant' for the purpose of the Transport Act 1985. The Department does not share that view. Since the peaks in demand are by definition the most popular times for consumers to use taxis, it can be strongly argued that unmet demand at these times should not be ignored. Local authorities might wish to consider when the peaks occur and who is being disadvantaged through restrictions on provision of taxi services.
- **consultation**. As well as statistical surveys, assessment of quantity restrictions should include consultation with all those concerned, including user groups (which should include groups representing people with disabilities, and people such as students or women), the police, hoteliers, operators of pubs and clubs and visitor attractions, and providers of other transport modes (such as train operators, who want taxis available to take passengers to and from stations);
- **publication**. All the evidence gathered in a survey should be published, together with an explanation of what conclusions have been drawn from it and why. If quantity restrictions are to be continued, their benefits to consumers and the reason for the particular level at which the number is set should be set out.
- **financing of surveys**. It is not good practice for surveys to be paid for by the local taxi trade (except through general revenues from licence fees). To do so can call in question the impartiality and objectivity of the survey process.¹⁶

¹⁶ DfT, *Taxi And Private Hire Vehicle Licensing: Best Practice Guidance*, March 2010, paras 47-50