



Department  
for Transport

# Government Response

## Report of the Task and Finish Group on Taxi and Private Hire Vehicle Licensing

**Moving Britain Ahead**



February 2019

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# Foreword

I would like to thank the Chair and Members of the Task and Finish Group on Taxi and Private Hire Vehicle Licensing for their time and for sharing their knowledge and expertise. I share the group's desire to act where needed. Many of the recommendations in the Chair's report seek to ensure the safety of passengers in taxis and private hire vehicles wherever they may be travelling, and the report is clear on the role that government and licensing authorities must play to achieve this.

My Department has considered the recommendations made by the Chair and the comments of the members; it is clear where there is a consensus and where the arguments are more finely balanced. In this response I will set out the action Government will take. At the forefront of our deliberations are the interests of passengers, both in the short-term and going forward to provide a framework that works now and for the future as the sector faces further change.

The existing licensing framework provides licensing authorities with extensive powers to set appropriate standards for drivers, vehicles and private hire operators. As the Chair has identified, licensing authorities can bring about much of the needed reform through the use of these powers and we support the call for far greater collaboration between licensing authorities in the interests of both passengers and the trade.

Together, Government and licensing authorities can learn from past failings and regulatory and industry best practice, to provide a framework that fosters fair competition, high standards and a service for all that those working in the trade can be rightly proud of.



**Nusrat Ghani MP**

Parliamentary Under Secretary of State for Transport

# Background

## The Task and Finish Group

- 1 The Task and Finish Group (TFG) on Taxi and Private Hire Vehicle Licensing was established in September 2017. The group's remit was to consider evidence relating to the adequacy of current taxi and private hire vehicle (PHV) licensing authority powers, as set out in legislation and guidance, and to make recommendations for actions to address any priority issues identified; specifically:
  - Identifying the current priority concerns regarding the regulation of the sector, based on evidence of impact and scale across England;
  - Considering, in particular, the adequacy of measures in the licensing system to address those issues;
  - Considering whether it would advise the Government to accept the recommendations made in the Law Commission's May 2014 report on taxi and PHV legislative reform relevant to the issues, and;
  - Making specific and prioritised recommendations, legislative and non-legislative, for action to address identified and evidenced issues.
- 2 The Chair of the group, Professor Mohammed Abdel-Haq, submitted his report (the 'TFG report'), with individual annexes contributed by group members, to the Secretary of State for Transport on 9 July 2018.

## The format of this response

- 3 This response first sets out a broad summary of the Government's position, and the actions it proposes to take.
- 4 This is followed, in chapters two to five, by a point-by-point consideration of the report's 34 specific recommendations. The chapter headings mirror the named sections of the TFG report.

# 1. Summary

The report of the Chair of the independent Task and Finish Group sets out a road-map for reform of the regulation of the taxi and private hire vehicle (PHV) sector. His report highlights the leadership role that government must provide and the extensive powers that licensing authorities currently have to shape the sector and the benefits of increased collaboration between them. Above all other considerations the Task and Finish Group has put the passenger at the heart of its thinking; we welcome and share this view. Government will take action where needed to ensure a safe and well-functioning sector which meets the needs and expectations of its passengers.

Greater collaboration is essential to delivering safe and convenient travel for all; unlike other forms of licensing the people and premises (in this case the drivers and vehicles) are mobile and will frequently be asked to work beyond the area in which they are licensed - while regulation is undertaken at a local level, journeys the public wish to take are not bound by borders. Greater consistency and collaboration in regulation is needed to address the changes in the sector and the concerns of the public, the trade and of regulators themselves.

The primary concern of the group was considering ways in which the safety of passengers can be protected. The Chair, with the full support of the group's members, has made a number of recommendations on robust measures he feels are appropriate and how government should ensure these are consistently applied and enforced. The Government accepts the three key measures recommended to achieve a safe service for passengers:

- National Minimum Standards
- National Enforcement Powers; and
- A National Licensing Database.

In addition, Government will consider further, with a view to legislation, the Chair's recommendation around tackling cross-border working, including how it might work in detail.

Government has already made commitments as part of its Inclusive Transport Strategy to work with licensing authorities to increase the availability of wheelchair accessible vehicles where demand is unmet; to prevent the refusal of wheelchair users and those travelling with assistance dogs; and to take strong action if such offences occur.

As with other parts of the economy, the PHV trade has experienced growth in numbers and changes to the way those within it work. The Good Work Plan, published in December 2018, sets out the Government's vision for the future of the labour market and its ambitious plans for implementing the recommendations arising from the Taylor Review.

## 2. Market function and regulation

### **TFG Recommendation 1**

*Notwithstanding the specific recommendations made below, taxi and PHV legislation should be urgently revised to provide a safe, clear and up to date structure that can effectively regulate the two-tier trade as it is now.*

### **Government response**

- 2.1 We agree that the regulation of taxis and private hire vehicles needs reform. Government acknowledged that need in 2012 by asking the Law Commission to review the regulation of the sector and propose an updated legislative framework. The Commission published a report and draft Bill in May 2014.
- 2.2 Since the Law Commission's report was published in 2014, the sector has undergone rapid change and continues to do so. Increased use of technology by passengers and the trade has resulted in a significantly different licensing landscape from that which existed when the Commission undertook its review. The TFG report makes a number of specific recommendations which conflict with the approach that the Law Commission took - for example, concerning cross-border journey restrictions - and it does not address in detail many of the fundamental questions about how an entirely new legislative framework might look.
- 2.3 We will set out in this response what legislation the Government proposes to take forward. In the short term this does not include a full replacement of the law which regulates taxi and private hire. It will, however, be important to fully consider this as part of work on the Future of Mobility<sup>1</sup>, which will consider how Government can support new technology and innovation through regulatory frameworks which can evolve with time.

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<sup>1</sup> <https://www.gov.uk/government/publications/industrial-strategy-the-grand-challenges/industrial-strategy-the-grand-challenges#future-of-mobility>



### **TFG Recommendation 2**

Government should legislate for national minimum standards for taxi and PHV licensing - for drivers, vehicles and operators (see recommendation 6). The national minimum standards that relate to the personal safety of passengers must be set at a level to ensure a high minimum safety standard across every authority in England.

Government must convene a panel of regulators, passenger safety groups and operator representatives to determine the national minimum safety standards. Licensing authorities should, however, be able to set additional higher standards in safety and all other aspects depending on the requirements of the local areas if they wish to do so.

### **Government response**

- 2.4 The Government agrees that there should be national minimum standards for taxi and PHV licensing, and will take forward legislation when time allows to enable these.
- 2.5 There is a welcome consensus in favour of the principle of national minimum standards, though careful consideration will be needed to define the scope of those standards and what they should be. In particular, it will be important to carefully balance the need to create more harmonised licensing practice, particularly where safety is concerned, with the important right of local licensing authorities to set conditions appropriate for their areas.
- 2.6 In the interim, Government will continue to review its statutory and best practice guidance. The development of these, through engagement and consultation, will ultimately shape the content of national minimum standards.
- 2.7 At Autumn Budget 2018, the Government announced that it will consider legislating at Finance Bill 2019-20 to introduce a tax-registration check linked to the licence renewal processes. This would include drivers of taxis and PHVs and PHV operators licensing in England and Wales. Applicants would need to provide proof they are correctly registered for tax in order to be granted these licences. This would help to raise regulatory standards and improve tax compliance in this sector.

### **TFG Recommendation 3**

Government should urgently update its Best Practice Guidance. To achieve greater consistency in advance of national minimum standards, licensing authorities should only deviate from the recommendations in exceptional circumstances. In this event licensing authorities should publish the rationale for this decision.

Where aspects of licensing are not covered by guidance nor national minimum standards, or where there is a desire to go above and beyond the national minimum standard, licensing authorities should aspire to collaborate with adjoining areas to reduce variations in driver, vehicle and operator requirements. Such action is particularly, but not exclusively, important within city regions.



## Government response

- 2.8 The Government welcomes this recommendation, recognising as it does the leadership role that Government must play but also the shared collective responsibility that licensing authorities have to work together to increase consistency beyond safety standards and in doing so address the root cause of wider concerns over 'out-of-area' working by some licensees.
- 2.9 Alongside this response, the Department is for the first time consulting on statutory guidance to be issued to licensing authorities which details the Department's view of how their functions may be exercised so as to protect children and vulnerable adults from harm. Licensing authorities are obligated to have regard to this guidance, and as such we expect the final recommendations to be enacted unless there is a clear local reason to deviate from them.

### **TFG Recommendation 4**

In the short-term, large urban areas, notably those that have metro mayors, should emulate the model of licensing which currently exists 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 having encouraged such joint working to build capacity and effectiveness, working with the Local Government Association, should review progress in non-metropolitan areas over the next three years.

## Government Response

- 2.10 The Government agrees that collaboration and joint working can be helpful in ensuring efficient operation of taxi and PHV licensing in smaller local authorities. The Government will keep progress in this area under review.

### **TFG Recommendation 5**

As the law stands, plying for hire is difficult to prove and requires significant enforcement resources. Technological advancement has blurred the distinction between the two trades.

Government should introduce a statutory definition of both plying for hire and pre-booked in order to maintain the two-tier system. This definition should 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.

## Government response

- 2.11 This matter was the subject of specific consideration by the Law Commission in the course of its review. The Commission ultimately concluded that a statutory definition of plying for hire would not be a practical improvement on the current position. This decision was reached with the advice of an expert panel established specifically for the purpose of discussing reform of "plying for hire". The Commission's main reason

for reaching this conclusion was that whether a vehicle is plying for hire in particular circumstances is a matter of fact and degree that the courts must consider. It concluded that many of the current grey areas would remain unresolved as no statutory list of factors could be sufficiently determinative to give clear guidance.

- 2.12 We have no reason to believe that the legal situation has changed since 2014, and thus no reason to believe that a new or reconvened expert panel would reach a different conclusion. As a result, the Government does not intend to take this recommendation forward at this time.

#### **TFG Recommendation 6**

Government should require companies that act as intermediaries between passengers and taxi drivers to meet the same licensing requirements and obligations as PHV operators, as this may provide additional safety for passengers (e.g. though greater traceability).

#### **Government response**

- 2.13 PHV operators, and companies that act as intermediaries for taxi bookings, do perform functions that appear very similar. However, the Government is not convinced that there is a compelling case for the licensing of taxi intermediaries (such as taxi apps or radio circuits).
- 2.14 An operator is fundamental to the booking of a PHV, and so has a distinct and legally necessary role in the regulatory system. Conversely, when a taxi is requested via an intermediary, that intermediary is doing nothing more than passengers could do themselves - they merely convey the request from the passenger to a taxi driver. This is unlike the situation with PHVs where it would be illegal for the passenger to engage the services of the driver directly, and the involvement of the PHV operator is necessary to make the journey a lawful one. This distinction reflects the greater degree of regulation applied to taxis than PHVs.
- 2.15 The Law Commission also considered this, and concluded that intermediaries working solely with licensed taxis should not require licensing.

#### **TFG Recommendation 7**

Central 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 Response**

- 2.16 Government is aware of the additional cost involved in the purchase of a wheelchair accessible vehicle (WAV) or a zero-emission capable vehicle, whether voluntarily or because of licensing requirements.

- 2.17 For zero-emission capable vehicles, the Government provides the plug-in car grant<sup>2</sup> and the plug-in taxi grant<sup>3</sup>.
- 2.18 A number of authorities are proactively encouraging the provision of WAVs through offering discounted licensing fees for these vehicles. Government welcomes this initiative and would encourage licensing authorities to consider what other incentives could be offered (particularly those which may not impose costs on licensing authorities themselves - for example, allowing WAVs access to bus lanes).
- 2.19 The Government does not propose to introduce further financial incentives for taxis and PHVs based on vehicle type at the current time; however we will keep this under review.

### **TFG Recommendation 8**

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 private hire vehicles they license. This can help authorities to solve challenges around congestion, air quality and parking and ensure appropriate provision of taxi and private hire services for passengers, while maintaining drivers' working conditions.

### **Government Response**

- 2.20 Local licensing authorities outside London can currently limit the number of taxis they licence, provided there is no significant 'unmet demand' for taxi services in their areas. It is not currently possible by law for any licensing authority in England to limit the number of PHVs it licenses.
- 2.21 The TFG members had differing opinions on this recommendation, recorded in their comments in the annex to the report; Transport for London (TfL) strongly supports it, while some other members flag concerns about the effects on competition in particular. Competition benefits consumers by incentivising operators to give value for money, to innovate, and drive improvements in service standards.
- 2.22 Of particular concern would be any potential impact on safety. An undersupply of vehicles would increase wait times and cause people to be stranded in vulnerable situations, potentially increasing the use of unlicensed, unvetted and illegal drivers and vehicles. We acknowledge that the recommendation is that licence 'caps' should require a public interest test, which may allow for consideration of any negative impacts. Nevertheless, the potential negative impacts of capping for passengers are considerable, and real-life demand for taxi and PHV services can be very difficult to accurately calculate. Reducing the availability of PHVs could also result in higher prices for passengers, as, unlike taxis, PHV fares are not controlled.
- 2.23 There has been significant growth in the number of PHVs licensed in London in recent years; there was an increase of 66% between March 2014 and March 2017, from around 53,000 vehicles to nearly 88,000. Since then, the number does appear to have stabilised at around 87,500.<sup>4</sup> TfL has congestion charging powers, and has announced following public consultation that the exemption from the congestion

<sup>2</sup> <https://www.gov.uk/government/publications/plug-in-car-grant/plug-in-car-grant-eligibility-guidance>

<sup>3</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/682046/plugin-taxi-grant-vehicle-application-guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/682046/plugin-taxi-grant-vehicle-application-guidance.pdf)

<sup>4</sup> <https://tfl.gov.uk/info-for/taxis-and-private-hire/licensing/licensing-information>

charge currently given to PHVs when they are working will be removed from April 2019.<sup>5</sup>

- 2.24 The Government does not propose to take this recommendation forward. We would instead wish to see local authorities make the most use of existing powers to address air quality and congestion issues.

#### **TFG Recommendation 9**

All licensing authorities should use their existing powers make it a condition of licensing that drivers cooperate with requests from authorised compliance officers in other areas. Where a driver fails to comply with this requirement enforcement action should be taken as if the driver has failed to comply with the same request from an officer of the issuing authority

#### **Government Response**

- 2.25 The Government welcomes this recommendation. Regardless of any current or future rules on cross-border working (see paragraphs 2.30 - 2.35), drivers will on occasion encounter licensing officers from other authorities.
- 2.26 We are aware of a number of authorities that already have this requirement as part of their licensing conditions and we would encourage other licensing authorities to do so too. Where drivers are working in an area other than that in which they are licensed, it should be expected that licensees comply with the reasonable requests of any licensing officers, assisting them in ensuring compliance with appropriate standards, and ultimately protecting passengers.

#### **TFG Recommendation 10**

Legislation should be brought forward to enable licensing authorities to carry out enforcement and compliance checks and take appropriate action against any taxi or PHV in their area that is in breach of national minimum standards (recommendation 2) or the requirement that all taxi and PHV journeys should start and/or end within the area that issued the relevant licences (recommendation 11).

#### **Government Response**

- 2.27 The Government agrees that there should be national enforcement against the national minimum standards that will be introduced in response to recommendation two, and will legislate for this when time allows.
- 2.28 As noted above, regardless of any current or future rules on cross-border working, drivers will inevitably undertake some journeys which take them outside their licensed area. The benefits to passenger safety resulting from robust national minimum standards can only be maximised when effective enforcement ensures compliance with these, regardless of where journeys are taking place.

<sup>5</sup> <https://consultations.tfl.gov.uk/policy/private-hire-charge-exemption/> (the exemption will continue to be available for wheelchair accessible PHVs).

- 2.29 The Government will work closely with licensing authorities and enforcement officers to ensure that the precise scope of national enforcement powers, and how they would be used in practice, are carefully considered and defined.

#### **TFG Recommendation 11**

Government should legislate that all taxi and PHV journeys should start and/or end within the area for which the driver, vehicle and operator (PHVs and taxis – see recommendation 6) are licensed. Appropriate measures should be in place to allow specialist services such as chauffeur and disability transport services to continue to operate cross border.

Operators should not be restricted from applying for and holding licences with multiple authorities, subject to them meeting both national standards and any additional requirements imposed by the relevant licensing authority.

#### **Government Response**

- 2.30 There are clearly a range of views within the sector and interested parties about how cross-border, or out-of-area, journeys by taxis and PHVs should be permitted or restricted. This can clearly be seen in the range of views expressed by individual members of the TFG in their comments in the annex to the report.
- 2.31 Currently, a PHV journey can take place anywhere in England provided that the driver, vehicle and operator are licensed by the same licensing authority. However, the licensing requirements in different areas (for example, the training required of drivers or the vehicle standards set) can vary considerably.
- 2.32 Such variations, combined with the freedom to carry out journeys anywhere, can incentivise drivers or operators to license away from the area where they actually intend to carry out work. This means that the ability of local licensing authorities to set and maintain taxi and PHV standards for their local areas is undermined.
- 2.33 We acknowledge the view that national minimum standards will go some way towards resolving that problem. The Suzy Lamplugh Trust noted in its comments on the TFG report that it did not support recommendation 11 because the introduction of national minimum standards would resolve the current practice of drivers choosing which licensing authority to obtain their licence from based on "less stringent" safety checks.
- 2.34 Even with national minimum standards in place, there will still be variations in licensing conditions (and therefore matters like licence costs and processing times), since the Government does not intend to remove the ability of licensing authorities to set their own local standards in matters not covered by the national minimum standards, or above and beyond those minimum standards. Local authorities are accountable for licensing in their areas and it is only right that they have the powers to properly shape and influence their local market.
- 2.35 Government therefore agrees with the principle of this recommendation, and will consider further (with a view to legislation) how it might best work in detail. In particular, Government will need to consider what size of area is appropriate. We will also consider what flexibilities or exemptions might be needed to reduce or avoid negative impacts on any particular business models, types of transport or passenger,

and businesses or localities that are close to (perhaps multiple) licensing authority borders.

**TFG Recommendation 12**

Licensing authorities should ensure that their licensing administration and enforcement functions are adequately resourced, setting fees at an appropriate level to enable this.

**Government Response**

- 2.36 The prime reason for regulation of taxis and PHVs is to protect the public and licensing authorities must ensure that this function is sufficiently resourced to do so. We therefore urge licensing authorities to ensure that they have efficient and effective procedures in place to minimise the cost to the trade of establishing a robust and well-resourced licensing body and undertake a review of their licensing fees to recover the permissible costs and no more of providing this.

**TFG Recommendation 13**

Legislation should be introduced by the Government as a matter of urgency to enable Transport for London to regulate the operation of pedicabs in London

**Government Response**

- 2.37 The Government fully supports this recommendation.
- 2.38 Under the current law, pedicabs can be regulated as taxis elsewhere in England but not in London. This is the result of the differing legislation that governs London and the rest of England. In London, pedicabs are considered to be 'stage carriages' rather than taxis (hackney carriages). The resulting lack of any regulation of pedicabs in London is an anomaly which needs fixing, in the clear interest of passengers.
- 2.39 The Government has worked with TfL to support the Pedicabs (London) Private Members' Bill brought forward by Paul Scully MP. The objective of the Bill has cross party support, and we hope that Parliament will enable this to become statute.
- 2.40 Should the Pedicabs (London) Bill not become law, the Government will put forward its own legislation when time permits to enable TfL to regulate pedicabs.

**TFG Recommendation 14**

The Department for Transport and Transport for London should work together to enable the issue of Fixed Penalty Notices (FPNs) for both minor taxi and PHV compliance failings. The Department for Transport should introduce legislation to provide all licensing authorities with the same powers.

## Government Response

- 2.41 The Transport for London Act 2008 enables an FPN system to be introduced for certain taxi and PHV offences within London. These powers have never been commenced by TfL. Despite the title of the relevant schedule to the 2008 Act, the list of offences only relates to Acts which govern taxi regulation and therefore would not enable FPNs to be issued regarding any PHV offence.
- 2.42 The Department for Transport and TfL are discussing what amendments to the schedule of offences would be required to address this regulatory imbalance and address TfL's concerns, so that it can make effective use of its powers.
- 2.43 The Department is aware that a number of licensing authorities operate a penalty points system to address minor infringements. We will engage with licensing authorities to establish if there is significant demand for a power to issue fixed penalty notices outside of London to assist in the enforcement of national minimum standards.

### **TFG Recommendation 15**

All ridesharing service services should explicitly gain the informed consent of passengers at the time of the booking and commencement of the journey.

## Government Response

- 2.44 Taxi and PHV ridesharing services (i.e. multiple passengers sharing a taxi or PHV to the same, or similar, destinations who are charged separate fares - for example, the 'Uber Pool' service) have been permitted for over 30 years but the adoption by the public of new technology is likely to increase the participation rate.
- 2.45 Government supports choice for consumers but this must be an informed choice. It would be unacceptable for any person to be led to believe that they are hiring a taxi or PHV exclusively, and then be expected to share with other passengers who are unknown to them. Although the TFG report does not present any evidence that such confusion is happening in practice, operators should ensure their systems make it entirely clear to passengers when they are engaging a shared service. Licensing authorities may wish to ensure that their operator licensing conditions make clear that operators must do this.



## 3. Safety in taxis and private hire vehicles

- 3.1 Many of the recommendations made by the TFG Report in this area call on local licensing authorities to make better use of their existing powers, ahead of Government legislating for the introduction of national minimum standards.

### **TFG Recommendation 16**

The Department for Transport must as a matter of urgency press ahead with consultation on a draft of its Statutory Guidance to local licensing authorities. The guidance must be explicit in its expectations of what licensing authorities should be doing to safeguard vulnerable passengers. The effectiveness of the guidance must be monitored in advance of legislation on national minimum standards.

### **Government Response**

- 3.2 The TFG received submissions and heard evidence on ways to increase passenger safety from a wide range of organisations.
- 3.3 Both the Jay and Casey Reports into child sexual abuse and exploitation noted the prominent role played by taxi and PHV drivers in a large number of cases of abuse. The Casey Report in particular uncovered what was described as "weak and ineffective arrangements for taxi licensing which leave the public at risk." To help reduce the risk posed to children and vulnerable individuals from harm by taxi and PHV drivers who seek to abuse their position of trust, section 177 of the Policing and Crime Act 2017 enables the Secretary of State to issue statutory guidance to licensing authorities on the exercise of their taxi and PHV licensing functions.
- 3.4 The TFG was invited to review the draft statutory guidance ahead of the public consultation, and it has now been published for consultation alongside this response. The Department is grateful to the organisations it engaged with while drafting the guidance for consultation, and we encourage all organisations and individuals with views on the guidance to respond to the consultation.

### **TFG Recommendation 17**

In the interests of passenger safety, particularly in the light of events in towns and cities like Rochdale, Oxford, Newcastle and Rotherham, all licensed vehicles must be fitted with CCTV (visual and audio) subject to strict data protection measures. Licensing authorities must use their existing power to mandate this ahead of the requirement's inclusion in national minimum standards.

To support greater consistency in licensing, potentially reduce costs and assist greater out of area compliance, the Government must set out in guidance the standards and specifications of CCTV systems for use in taxis and PHVs. These must then be introduced on a mandatory basis as part of national minimum standards

### **Government Response**

- 3.5 The Government's view on the use of CCTV in taxis and private hire vehicles is set out in the consultation on draft statutory guidance which accompanies this response.
- 3.6 It is the Department's view that CCTV (with targeted overt recording of audio instigated when either the passenger or driver deems necessary) provides additional public protection - to both passengers and drivers - providing a fuller objective record of events, assisting in identification of unacceptable and/or illegal behaviour by all occupants of the vehicle. As the TFG report identifies, ridesharing in taxis and PHVs is becoming more popular, introducing further risks as passengers are travelling in close proximity with strangers.
- 3.7 However, Government must also consider the importance of protecting individuals' privacy. It is vital therefore that any recordings made are able to be viewed only by those with a legitimate need to do so, such as the police when investigating an allegation or licensing authorities in response to a complaint. Licensing authorities should refer to guidance issued by the Information Commissioner and the Surveillance Camera Commissioner when formulating their policies on the specification and use of in vehicle CCTV system.
- 3.8 It should be noted that where a local authority considers granting a license subject to CCTV conditions, it assumes the role of a system operator for the purposes of the Home Secretary's Surveillance Camera Code issued under the Protection of Freedoms Act 2012, which means it must have regard to the Code; and is the data controller for the purposes of the Data Protection Act 2018.

### **TFG Recommendation 18**

As Government and local authorities would benefit from a reduction in crime in licensed vehicle both should consider ways in which the costs to small businesses of installing CCTV can be mitigated.

### **Government Response**

- 3.9 It is likely that Government and local authorities would benefit from a reduction in crime as a result of more extensive installation of CCTV in taxis and PHVs. However, CCTV is installed in many businesses at their own cost with an expectation that this

will deter crime and so protect their staff and property. For example, similar conditions may be required before granting establishments a licence to sell alcohol.

- 3.10 Government has acted to assist the trade where tighter regulation has significantly increased costs, for example providing a grant of up to £7,500 to assist the trade in transitioning to zero emission capable vehicles. The cost of installing a CCTV system is similar to a replacement set of tyres for a vehicle; as such we do not consider subsidising of these additional costs is necessary.

#### **TFG Recommendation 19**

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 (e.g. a clearly visible badge or arm-band providing) relevant details to assist the passengers in identifying that they are appropriately licensed e.g. photograph of the driver and licence type i.e. immediate hire or pre-booked only.

All PHVs must be required to provide information to passengers including driver photo ID and the vehicle licence number, in advance of a journey. This would enable all passengers to share information with others in advance of their journey. For passengers who cannot receive the relevant information via digital means this information should be available through other means before passengers get into the vehicle.

#### **Government Response**

- 3.11 It is clearly important that people are able to identify a licensed vehicle and driver, minimising the risk of them travelling in vehicles that are not licensed or correctly insured.
- 3.12 It is also common that people do not understand fundamental differences between taxis and PHVs; comments from the Suzy Lamplugh Trust in the annex to the TFG report highlight that over a quarter of people believe PHVs can be hired directly through the driver.
- 3.13 There are divergent standards through England as to what a taxi and PHV may look like, or display. These differences range from the minor e.g. whether an operator's details can or must be displayed (either permanently or in a form which can be removed) to specifying what colour vehicles must be in order to be licensed.
- 3.14 The Government will consider what vehicle and driver identification requirements should be included within national minimum requirements, focussing on supporting safety. Over and above national minimum standards, local considerations (particularly in respect of vehicle licensing conditions) will remain important.

### **TFG Recommendation 20**

All drivers must be subject to enhanced DBS and barred lists checks. Licensing authorities should use their existing power to mandate this ahead of inclusion as part of national minimum standards.

All licensing authorities must require drivers to subscribe to the DBS update service and DBS checks should must be carried out at a minimum of every six months. Licensing authorities must use their existing power to mandate this ahead of inclusion as part of national standards.

### **Government Response**

- 3.15 The Government agrees with both parts of this recommendation, and they are included in the statutory guidance which has been issued for consultation alongside this response. In the longer term, they will be considered as part of national minimum standards.
- 3.16 In 2012 the Government enabled licensing authorities to undertake enhanced Disclosure and Barring Service (DBS) checks; this includes the ability to check both barred lists, which list people who are prevented from working with children and/or adults as they are, have been, or might in the future be, engaged in regulated activity or where a person is cautioned or convicted for a relevant (automatic barring) offence. As the TFG report acknowledges, all licensing authorities have a stated policy of requiring enhanced DBS checks for taxi and PHV drivers, but a small minority of authorities do not also check the barred lists despite there being no additional cost to do so.
- 3.17 The TFG report also highlights the benefits of requiring licensees to subscribe to the DBS's update service, through reduced administration and lower long-term costs for both licensing authorities and licensees themselves.

### **TFG Recommendation 21**

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. Licensing authorities must align their existing policies to this ahead of inclusion in national minimum standards.

### **Government Response**

- 3.18 The Government agrees with this recommendation, and its view has been included in the statutory guidance which has been issued for consultation alongside this response.
- 3.19 As with the introduction of national minimum standards, Government will seek to balance the need for greater nationwide consistency with respect for local decision making. We welcome the work that the Institute of Licensing in partnership with the Local Government Association, the National Association of Licensing and Enforcement Officers and Lawyers in Local Government have done in this area. Their work has informed the guidance on previous convictions that is included in the

draft statutory guidance. The intention is that, subject to the outcome of the consultation, this will be included in national minimum standards.

**TFG Recommendation 22**

The Quality Assurance Framework and Common Law Police Disclosure Provisions must be reviewed to ensure as much relevant information of behaviours as well as crimes by taxi and PHV drivers (and applicants) is disclosed to and to ensure licensing authorities are informed immediately of any relevant incidents.

**Government Response**

- 3.20 Under section 113B (4) of the Police Act 1997, the legislation requires that the DBS requests that a relevant Chief Officer of police provide any information which he/she reasonable believes to be relevant and considers ought to be disclosed. The Quality Assurance Framework (QAF) is the decision-making tool used by the Disclosure Units of police and other law enforcement agencies when considering whether information should be disclosed or not for inclusion in Enhanced Disclosure and Barring Service certificates. This is overseen by the National Police Chiefs' Council (NPCC) as it relates to the statutory police role within the disclosure regime.
- 3.21 Under Common Law Police Disclosure provisions (CLPD), the police can use their common law powers for the prevention and detection of crime to proactively provide police intelligence or information to a third party (such as a licensing authority) where there is a public protection risk, to allow them to act swiftly to mitigate any danger. It is for Chief Police Officers to locally determine the implementation of CLPD provisions.
- 3.22 Government will discuss the provision of information with the NPCC with a view to ensuring that appropriate steps are being taken to provide relevant information to licensing authorities.

**TFG Recommendation 23**

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. All refusals and revocations must be recorded, and the register checked for all licence applications and renewals. Licensing authorities must retain the reasons for any refusal, suspension or revocation and provide those to other authorities as appropriate. The Government must, as a matter of urgency, bring forward legislation to mandate this alongside a national licensing database (recommendation 24).

**Government Response**

- 3.23 It is important that licensing authorities who are making a decision on whether to grant a taxi or PHV driver licence can do so in possession of all relevant facts, including whether the applicant has been refused or lost a licence in another area because of safety concerns. At present, there is no data sharing mechanism to make sure that such history is disclosed to them.

- 3.24 The Government supports the Private Member's Bill brought by Daniel Zeichner MP that would mandate licensing authorities to use such a database. The Government also welcomes the initiative of the LGA in setting up a voluntary database of drivers who have been refused or revoked licences. Any information obtained using data sharing methods like this must be used as an aid to local, independent decision making. The statutory guidance which is published for consultation alongside this response expands further on the Government's view.
- 3.25 In the longer term, the Government intends that information about drivers who have had licences refused or revoked would be one part of the wider-ranging national database discussed against the next recommendation (24).

#### **TFG Recommendation 24**

Government must establish a mandatory national database of all licensed taxi and PHV drivers, vehicles and operators, to support stronger enforcement.

#### **Government Response**

- 3.26 Government will legislate for the creation of a national taxi and private hire database, as a necessary accompaniment to national enforcement powers. Development of the database will take account of the work undertaken for the identification of taxis and PHVs for charging Clean Air Zone purposes.
- 3.27 It will assist in the effective application of national minimum standards by enabling suitably qualified local authority enforcement officers to take action against taxis and PHVs regardless of where they are licensed.
- 3.28 The establishment of a national licensing database will assist bodies such as licensing authorities and the police to communicate information in a timely manner, as it will enable them to quickly and accurately identify where a driver or vehicle are licensed. For example, this would assist the police in disclosing relevant information under the Common Law Police Disclosure powers.

#### **TFG Recommendation 25**

Licensing authorities must use their existing powers to require all drivers 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. This requirement must form part of future national minimum standards.

#### **Government Response**

- 3.29 The Government welcomes this recommendation and the acknowledgement that such a requirement can be universally applied under powers already available to licensing authorities.
- 3.30 The draft statutory guidance which has been issued for consultation alongside this response includes a recommendation that licensees should be required to undertake safeguarding / child sexual abuse and exploitation awareness training.

- 3.31 In the longer term, the Government intends that this requirement would be included in national minimum standards.

**TFG Recommendation 26**

All individuals involved in the licensing decision making process (officials and councillors) must have to undertake appropriate training. The content of the training must form part of national minimum standards.

**Government Response**

- 3.32 It is important that councillors or officers making decisions about the suitability of licensing applicants are suitably trained and equipped to do so. Authorities may have very robust policies in place, but it is the practical application of these that provides protection to the public. Licensing officers may frequently be called on to make difficult decisions, such as revoking or refusing a licence conscious of the implications that decision may have on the applicant or licensee and their family. Licensing authorities must ensure that their decision makers are aware of the public protection role they have and that the overriding consideration is the safety of the public.
- 3.33 The draft statutory guidance which has been published for consultation alongside this response recommends that those charged with determining taxi and PHV licensing matters undertake appropriate training.
- 3.34 In the longer term the Government intends that the requirement for training would be included in national minimum standards.

**TFG Recommendation 27**

Government must review the assessment process of passenger carrying vehicle (PCV) licensed drivers and/or consider the appropriate licensing boundary between taxis/PHVs and public service vehicles (PSVs).

**Government Response**

- 3.35 The TFG report explains the current demarcation (i.e. seating capacity) and differing licensing processes between the PHV and Public Service Vehicle (PSV - minibuses, buses and coaches) regimes.
- 3.36 The Government attaches the utmost priority to passenger safety in the licenced taxi and PHV trade. The licensing regime for any transport mode must be reflective of the relative potential risk they might pose to the travelling public. It is not therefore acceptable that the PHV licensing regime may be evaded through the use for PHV bookings of drivers and vehicles which are not licensed for PHV purposes.
- 3.37 Where PHV operators also hold a PSV operator's licence, PSVs should not be used to fulfil bookings except with the informed consent of the hirer. For example, if a member of the public contacts a PHV operator and seeks a booking for a party of fewer than nine passengers, it cannot be reasonable to assume that a PSV is required unless there are other factors e.g. a large amount of baggage. If, for



example, a nine-seater minibus (a PSV) is necessary, the difference in licensing requirements should be explained and explicit consent obtained. Licensing authorities should use their existing powers to include as a condition of a PHV operator's licence that bookings received by that licence-holder must be fulfilled using a PHV licensed driver and vehicle. Authorities may then take appropriate steps to monitor and enforce compliance with the licence condition.

- 3.38 In the longer term, it will be important to consider as part of the Future of Mobility Grand Challenge what changing technologies and ways of working might mean for the differing regulatory frameworks applied to road transport in the UK, including whether the number of seats in a vehicle remains an appropriate way of deciding how to regulate.

#### **TFG Recommendation 28**

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.

#### **Government Response**

- 3.39 Government supports this recommendation. Those that carry members of the public must be able to understand the needs of their passengers.
- 3.40 The draft statutory guidance which has been issued for consultation alongside this response recommends that licensing authorities require an English assessment (oral and written) for their licensees.
- 3.41 In the longer term, Governments intends that this requirement would be included in national minimum standards.

## 4. Accessibility

### **TFG Recommendation 29**

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

### **Government Response**

- 4.1 The Government supports this recommendation. Taxis and PHVs play a vital role in enabling disabled people to travel where other modes may not be available or accessible. The Department has, in previous best practice guidance, encouraged licensing authorities to use their powers to improve drivers' awareness of the needs of disabled people including by undertaking disability awareness training. This training should include awareness of less visible impairments, such as learning disabilities and dementia.
- 4.2 Licensing authorities have the powers to mandate this training. The TFG report highlights the low proportion of authorities (38% as of 31 March 2017, increasing to 41% as of 31 March 2018) which currently do so.
- 4.3 Since the Group submitted its report, Government has published the Inclusive Transport Strategy<sup>6</sup> (ITS). The ITS includes a commitment to consult on updated best practice guidance which should better support licensing authorities to use their existing powers. In particular, we will recommend that authorities require taxi and PHV drivers to complete disability awareness and equality training, make it simple to report discrimination, and take robust action against drivers who have discriminated against disabled passengers.
- 4.4 In the longer term the Government intends that these training requirements will be included in national minimum standards.

### **TFG Recommendation 30**

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

<sup>6</sup> <https://www.gov.uk/government/publications/inclusive-transport-strategy>

## Government Response

- 4.5 The TFG report highlights the variation in the availability of wheelchair accessible vehicle (WAVs) across England. In over a quarter of authorities, 5% or fewer of taxis are wheelchair accessible, and this measure increases to nearly two-thirds of authorities for PHVs. It is however acknowledged that an entirely WAV fleet may not be beneficial to disabled passengers, most of whom are not wheelchair users.
- 4.6 In its comments in the annex to the TFG report, Transport for London comments on the difficulty in achieving a mixed PHV fleet as vehicles are often licensed by individuals rather than PHV operators to whom a quota might be more easily applied. The Local Government Association also noted that there may be practical barriers to mandating practicality minimum WAV numbers.
- 4.7 In the ITS Government stated a desire to see a much greater proportion of WAVs, particularly in non-urban areas, over the next 10 years. We will write to all local licensing authorities stressing the importance of supporting an inclusive taxi and PHV fleet.
- 4.8 We will continue to monitor the proportion of WAVs within overall taxi and PHV fleets, as reported in the annual DfT taxi and PHV statistics, and to seek clarification from authorities as to the steps they are taking to assess and respond to the local need for such vehicles.

### **TFG Recommendation 31**

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.

## Government Response

- 4.9 In 2017, the Government commenced sections 165 and 167 of the Equality Act 2010. Under Section 167 a licensing authority may publish a list of their licensed vehicles designated as wheelchair accessible; those vehicles are then required to apply the passenger protections in Section 165. These are to not charge more to a passenger in a wheelchair than to any other passenger, and to provide reasonable assistance (drivers may be exempted from the latter on medical grounds).
- 4.10 In the ITS, Government strongly encouraged licensing authorities to publish lists under section 167 of the Equality Act 2010 to ensure that wheelchair users are protected from discriminatory behaviour. The ITS also committed Government to:
- From autumn 2019 publish on an annual basis a list of those authorities which we know to have issued a list of taxis and PHVs designated as being wheelchair accessible in accordance with Section 167 of the Equality Act 2010;
  - Continue to encourage local licensing authorities, which have not already done so, to publish lists of taxis and PHVs designated as wheelchair accessible under Section 167 of the Equality Act 2010, and to inform the Department that they have done so.

### **TFG Recommendation 32**

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 for passengers to report disability access refusals.

### **Government Response**

- 4.11 The TFG report notes the findings of a recent survey of guide dog owners which identified that almost half (42%) had experienced a refusal to enter a taxi or PHV in the previous year because of their dog. The Government agrees that this is unacceptable.
- 4.12 In the ITS we committed to undertake research to identify why the risk of fines and the loss of a driver's taxi or PHV licence appear insufficient in some circumstances to prevent them from discriminating against assistance dog owners. It is obvious that prevention of illegal refusals is preferable to retrospective sanctions, which do little to rebuild the confidence of assistance dog users who have been subject to illegal refusals. We will therefore use evidence from this research to inform ways in which training can play a role in preventing refusals occurring. As set out in response to recommendation 29 of the TFG report, Government intends to include disability awareness and equality training in national minimum standards.
- 4.13 The Government agrees that those that refuse to meet their legal obligation under Sections 168 and 170 of the Equality Act 2010 should be subject to enforcement action. We have stated in the ITS that licensing authorities should use the powers available to them, and take robust action against those who have discriminated illegally against disabled passengers.

## 5. Working conditions

### **TFG Recommendation 33**

The low pay and exploitation of some, but not all, drivers is a source of concern. Licensing authorities should take into account any evidence of a person or business flouting employment law, and with it the integrity of the National Living Wage, as part of their test of whether that person or business is "fit and proper" to be a PHV operator.

### **Government Response**

- 5.1 The TFG report acknowledges that the group did not have the expertise, nor was it within its scope, to determine the employment status of drivers. This is also true of licensing authorities; only the courts can make rulings on employment status.
- 5.2 However, the Government agrees that the decisions of tribunals, and whether an operator concerned is complying with a ruling in the way the law requires, should reasonably be considered by a licensing authority as part of the 'fit and proper' test for a PHV operator. It is unacceptable for business not to comply with and deny workers their statutory employment rights - such as the appropriate National Minimum Wage rate or National Living Wage - and if a business deliberately does so in disregard of what is required of them, this calls into question whether they are fit and proper to be licensed.
- 5.3 As the TFG report also notes, the current high-profile debate on employment status goes beyond the taxi and PHV sector. The Good Work Plan, published in December 2018, states Government will legislate to improve the clarity of the employment status tests, reflecting the reality of modern working relationships.

### **TFG Recommendation 34**

Government should urgently review the evidence and case for restricting the number of hours that taxi and PHV drivers can drive, on the same safety grounds that restrict hours for bus and lorry driver.

### **Government Response**

- 5.4 The TFG report explains that although the group did not receive independent evidence of the number of hours drivers are working (or, more specifically, driving), the current lack of regulation of working hours for taxi and PHV drivers may potentially be a cause for concern.

- 5.5 The report also acknowledges that there may be monitoring and enforcement problems to enforcing such limits. This is particularly the case in a sector where currently the majority of drivers are self-employed.
- 5.6 In the first instance, in order to assess the scale of the issue, the Government will engage informally with sector stakeholders to determine whether it is possible to more accurately assess the hours drivers are working, and whether there is a trend for working more or excessive hours. The Government is mindful not just of road safety, but also of the need to avoid burdensome, yet difficult to enforce, regulation.